The Solicitors' Journal

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Current Topics.

The New Recorder of London.

IT is only in accordance with the fitness of things that Mr. HOLMAN GREGORY, who has been Common Serjeant for the last few years, should have been elected by the Court of Aldermen to fill the higher post of Recorder rendered vacant by the death of Sir ERNEST WILD. At one time, and that not so very long ago, the election by the City authorities of the Recorder conferred upon him all the rights and privileges appertaining to the office, but now the approval by the Crown of the choice made by the electors is necessary to clothe him with his full judicial attributes, but it need hardly be said that this approval is never withheld. While at the Bar the new Recorder enjoyed a substantial practice; he had, moreover, the advantage of having been Recorder first of Bath and then of Bristol, so that he came to the City offices, which till now he has held, with every qualification for the effective administration of justice and which he will continue to administer in the higher office to which he has been elected—an office which goes back at least to the year 1298 and which during the intervening centuries has been held by many distinguished lawyers, among them COKE, SOMERS, PETER KING, all of whom found the Recordership a stepping stone to higher things. Members of the solicitor branch of the profession may be interested to be reminded that before he came to the Bar Mr. HOLMAN GREGORY was for a time a solicitor in Bristol after serving his articles with Messrs. Latcham & Montague, of that city.

Judicial Precedence.

AT the opening of the present term a widely-circulated morning journal informed its readers that the Court of Appeal would sit in three divisions for the first time in the history of the Law Courts—an amazing piece of misinformation, as every member of the profession is aware. For many years the appellate court has been empowered to sit in three divisions, and has in fact done so on many occasions, but, of course, it has sat only intermittently when there was a pressure of work to be disposed of. Attentive students of the cause list may have observed, however, that what may be called the extra Court of Appeal, namely, that presided over by Lord WRIGHT, to deal with a number of cases from county courts, which formerly would have gone to a Divisional Court, was placed second in the list, whereas, it might be thought by some, that as Lord WRIGHT is one of the Lords of Appeal in Ordinary and usually sits in the House of Lords he should take precedence even before the Master of the Rolls, who was presiding in Court of Appeal No. 1. This matter of judicial precedence of Lords of Appeal, which arises when any of them come to assist the Court of Appeal, is governed by precise rules, which say that they take precedence according to the rank, or, if they are of equal rank, the date of their peerage. As most readers are aware, the Master of the Rolls is a peer, and as he is as such senior to Lord WRIGHT, he consequently takes precedence of him in court. The like rule applies even in the case of an ex-Chancellor who may happen to be assisting the Court of Appeal. Many years ago it may be recalled that Lord HERSCHELL, then an ex-Chancellor, sat in the Court of Appeal with Lord ESHER, the then Master of the Rolls, but as the latter was senior in the peerage he presided, having Lord HERSCHELL on his right. Curiously enough the one judge who has had the satisfaction of being promoted during the last fifty years in the matter of precedence, is the President of the Probate, Divorce and Admiralty Division. Time was when he had no precedence as such; then he was made a member of the Court of Appeal *ex officio*; and now and for many years he has been given judicial rank next after the Master of the Rolls.

Poor Law Administration, 1932-33.

FIGURES are now available concerning the public expenditure upon poor relief for the year ended 31st March, 1933. According to a statement issued by the Minister of Health last Tuesday, the total expenditure by the Poor Law authorities in England and Wales amounted to £38,923,852—a figure which represents an average of 19s. 4½d. per head of the estimated population, and shows an increase of over £2,000,000 on the previous year's total. During the year in question, the London County Council spent £6,821,474; other administrative counties £17,975,158; county borough councils £16,626,662, and joint vagrancy committees £262,149. By deducting the £2,761,591 received from other local authorities the total given above is arrived at. The expenditure on institutional relief, including £6,241,621 for the maintenance of rate-aided patients in mental hospitals, was £19,728,885, while that on domiciliary relief £17,157,831.

The Home Office and Motoring Offences.

APART from the care of drivers themselves and, perhaps, the formation of public opinion against careless and reckless driving, the powers conferred by Parliament upon the courts of summary jurisdiction are one of the most potent factors for the suppression of what has become a dangerous nuisance. The circular recently issued by the Home Office for the guidance of magistrates charged with the enforcement of various sections of the Road Traffic Act, 1934, is, therefore, of particular interest. The paramount need of securing the safety of the public, including other road users, is emphasised and the circular treats in some detail the penalty of disqualification from driving for a longer or shorter period. Allusion is made to the greater use of this deterrent in recent cases, and to the special difficulty which arises when a defendant's livelihood depends upon his ability to drive. It is, of course, recognised that the question whether disqualification is needed is for the court to decide in each individual case, but the Home Secretary says that he is sure that in all proper cases the justices will not hesitate to use their powers in support of the efforts which are being made generally to secure a reduction in the number of road accidents.

Pedestrian Crossings.

Mr. HORE-BELISHA, Minister of Transport, has conceded various points raised and submitted to him by the Metropolitan Boroughs' Standing Joint Committee in a meeting representative of all the metropolitan borough councils and the county borough councils of Croydon, East Ham and West Ham relative to the provision of 8,000 additional crossing places. The whole of the cost will now be defrayed out of the Road Fund, subject to 40 per cent. being repaid by the local authorities in respect of all permanent works taken over by them, the cost of maintenance is to be in proportions of 60 per cent. and 40 per cent. respectively. The Minister expresses the hope that the maximum progress will be made by the end of the month, but intimates that he will, on the representation of a local authority be ready to agree to a somewhat later date for the completion of the work in order to enable an individual authority to comply with standing orders or overcome some special difficulty. While expressing a desire and intention to avail himself most fully of the advice of the London and Home Counties Traffic Advisory Committee on this and all other matters of principle relating to traffic in London, he intimates that the urgency of the matter bound him to proceed with all possible expedition during the recess.

Exemptions from Rates and Decontrol.

THE Rent and Mortgage Interest Restrictions (Amendment) Act, 1933, is already beginning to yield a crop of interesting problems (see *Stokes* v. *Little*, reported in "Our County Court Letter" of 12th May (78 Sol. J. 332), and *Goldsborough* v. *Quayle* (1934), L.J. C.C.R. 157). An interesting Court of Appeal decision on the effect of the exemption of part of premises from rates on the calculation of the rateable value of the whole of the premises for the purpose of s. 16 (1) of the Rent and Mortgage Interest Restrictions (Amendment) Act, 1933, was given in *White and Another* v. *Bambridge*, 78 Sol. J. 734. The Act provides, by s. 1 (2), that the Rent Restrictions Acts shall not apply to premises in the Metropolitan Police Area of which either the rent or rateable value exceeds £45 a year, and by s. 16 (1) "rateable value on the appointed day" means the value shown on that day "in the valuation list then in force as the rateable value, or where the net annual value differs from the rateable value as the net annual value." The appointed day for this purpose was 6th April, 1931. The action was for arrears of rent, and the question was whether the house was decontrolled by the 1933 Act. It was admitted that the rent of the house in question was more than £45, but there was a dispute with regard to the rateable value. In 1920 the quinquennial valuation list showed it with a gross value of £50 and a rateable value of £42, and the figures in 1925 were £60 and £47, respectively. On a date between 1928 and 1929 the defendant began to use the ground floor as a post office, and in a provisional list made in 1929 the entry in respect of the premises was "ground floor exempt, rooms on first floor are of gross value £16, rateable value £12." A similar entry appeared in the list made in 1930. The county court judge held that the rateable value for the purpose of s. 16 (1) was £12, and therefore dismissed the claim. The Master of the Rolls said that the respondent contended that he had established his case by putting in evidence the rent book showing an entry for rateable value in respect of the premises on the relevant date at less than £45. That entry merely showed a value for the first floor and an exemption for the ground floor. As the dwelling-house was neither the first floor nor the ground floor, but the whole house, it could not be said that any rateable value was shown for the house on the list. If the value as shown in the list was all that the court could look at, the respondent's case failed, as the list did not contain the value of the whole premises, and he had failed to discharge the onus of proof of decontrol resting on him. The appeal was therefore allowed.

Minister of Health and Overcrowding.

FURTHER particulars to those outlined in our issue last week appear from the speech delivered by Sir HILTON YOUNG before the Birmingham City Council last Monday. The Minister of Health alluded to the body of men with great practical knowledge now sitting at the Ministry preparing the information which would be necessary in order that dwellings of the kind contemplated might be constructed on the most modern and convenient lines. The subsidy is to be given when the new dwellings can not be provided on an economic basis to let at rents appropriate to the tenants concerned. In addition to a contribution from the rates, financial assistance will be given by the subsidy which will take the form of an annual sum from the Exchequer per dwelling for a term of years, and will be calculated for the average type—the financial effects of the scheme will thus, it was said, average themselves out over a proportion of dwellings smaller and larger than the type. Sir HILTON reminded his hearers that with the part of the population with which they were concerned they had to deal with a high proportion of large families.

Infants' Actions against Public Authorities.

THE recent attempt to effect a breach in the provisions of the Public Authorities Protection Act, 1893, in *Shaw* v. *London County Council and Others* (78 SOL. J. 734), failed on appeal from the judgment of Mr. Justice ROCHE (78 SOL. J. 519). The short facts were that the plaintiffs, who were infants, were admitted into hospital in October, 1932, and within the same month became diseased, owing to the alleged negligence, lack of skill and breach of duty of the medical superintendent of the hospital. On 31st January, 1934, a writ was issued, and in addition to the allegations of negligence, it was alleged in the statement of claim that a wrong course of treatment had been used and that after nineteen months of the treatment no cure had been effected. The defendants pleaded that the action was barred by the Public Authorities Protection Act, 1893. Section 1 of that Act provides: "Where . . . any action, prosecution, or other proceeding is commenced in the United Kingdom against any person for any act done in pursuance or execution or intended execution of any Act of Parliament or of any public duty or authority, or in respect of any alleged neglect or default in the execution of any such Act duty or authority . . . (*a*) The action, prosecution or proceeding shall not lie or be instituted unless it is commenced within six months next after the act, neglect, or default complained of, or in the case of a continuance of injury or damage, within six months next after the ceasing thereof."

Section 2 of the Act expressly repeals so much of any Act as enacts that in any proceeding to which the Public Authorities Protection Act applies, the proceeding is to be commenced within any particular time. Section 7 of the Limitation Act, 1623, provides that persons who are infants, *femes coverts*, *non compos mentis*, imprisoned or beyond the seas, shall be at liberty to bring certain actions within the time limited after their incapacity has ceased. It was argued from these sections that the later Act did not repeal the earlier Act with regard to infants, in view of the maxim *generalia specialibus non derogant*—"The Vera Cruz" (1884), 10 A.C. 59. Lord Justice GREER, in his judgment, affirming the judgment of Mr. Justice ROCHE, held that the Public Authorities Protection Act, 1893, was absolute in its terms and applied to infants as well as to persons of full age, it being impossible to import exceptions which were in the 1623 Act. Lord Justice MAUGHAM, agreeing with this judgment, pointed out that there was no repeal, either express or implied, but that the two Acts could co-exist, the former protecting certain plaintiffs, the latter protecting certain defendants. His lordship cited the "Danube II" [1921] P., 183, at p. 189, where the Public Authorities Protection Act, 1893, and the Maritime Conventions Act, 1911, were under consideration, and a very similar question arose to that in *Shaw's Case*, both Lord STERNDALE, M.R., and Lord Justice SCRUTTON seeing no reason why the two should not stand together. It is, perhaps, a hardship that infants are not specially protected in their actions against public authorities as they are in other actions, but, assuming that this difficult point of interpretation is not reconsidered by the House of Lords, any resultant hardship can only be set right by legislation.

Decisions of the Week.

AMONG cases reported during the past week may be mentioned that of *Leeds Corporation* v. *Jenkinson* (*The Times*, 6th October). The Court of Appeal upheld the validity of a notice to quit and negatived the alleged illegality of a rent pool whereby different charges were made by the local authority for similar houses having regard to the means of the tenants, so that the aggregate prescribed by s. 3, sub-s. (1), of the Housing (Financial Provisions) Act, 1924, should not be exceeded. The aggregate is determined with reference to appropriate normal rents for working-class houses erected prior to 3rd August, 1914—appropriate normal rents being fixed by the method indicated by rules made by the Minister of Health in 1924 (S.R. & O. 1924, No. 1362). Lord HANWORTH, M.R., said that the very word "aggregate" seemed to indicate that, although there might be a contribution A from one group of houses, a contribution B from another, and a contribution C from another, the aggregate was to be regarded, and the components need not necessarily be equal. The provisions of the Act of 1924 prevent a local authority from using subsidies for the benefit of the rates or for showing a profit, but do not curtail the authority's general powers of management. The test whether a proposed course of action is *ultra vires* "must be that the powers were exercised unreasonably or in bad faith": per Lord HANWORTH in reference to *Short* v. *Poole Corporation* [1926] 1 Ch. 66. The short point raised in *Re Sigsworth: Bedford* v. *Bedford* (*The Times*, 6th October), was whether a son who, as the court was to assume, murdered his mother and subsequently committed suicide would take as under an intestacy property comprised in the latter's estate, notwithstanding the rule of public policy which prevents a murderer receiving a benefit under his victim's will. CLAUSON, J., said that, so far as the case before him was concerned, it was contrary to the same public policy that a man should put forward a claim for any benefit which resulted to him from the death of the person from whom the benefit was to come, and it was declared that the son's personal representative could not claim to share as such in the distribution of the estate in respect of which the mother died intestate.

Pedestrians' Rights on the Highway

THE recent exercise by the Minister of Transport of his power under s. 48 of the Road Traffic Act, 1930, and s. 10 of the London Traffic Act, 1934, with regard to foot passenger crossings has to some extent modified the existing law with regard to the use of the highway by pedestrians. While purporting to make the roads safe for pedestrians the Minister has in fact restricted the legal rights of the pedestrian to be on the highway at all.

Those rights have been defined by the courts in no uncertain terms in the past. Chief Justice Denman in *Boss* v. *Litton* (1832), 5 C. & P. 407, went so far as to say: "A man has a right to walk in the road if he pleases. It is a way for foot passengers as well as carriages." The force of this statement is not diminished by his further statement: "But he had better not, especially at night, when carriages are passing along." Nor was it lessened by the fact that in that case the footpath was admittedly in a bad condition. In summing up, the learned Chief Justice reiterated: "All persons, paralytic as well as others, have a right to walk on the road and are entitled to the exercise of reasonable care on the part of persons driving carriages along it."

This rule of the road was emphasised in *Cotterill* v. *Starkey*, 8 C. & P. 691. The facts were that the plaintiff and his wife were crossing Holloway-road. The defendant was driving a spring cart from Islington-road into Holloway-road, and on making the turn, ran down the female plaintiff, injuring her. Patteson, J., said (at p. 694): "A foot passenger has the right to cross a highway, and I believe that it was held in one case (*Boss* v. *Litton*) that a foot passenger has a right to walk the length of the carriageway; but without going that length, it is quite clear that a foot passenger has a right to cross, and that persons driving carriages along the road are liable if they do not take care so as to avoid driving against the foot passengers who are crossing the road: and if a person driving along the road cannot pull up because his reins break, that will be no ground of defence, as he is bound to have proper tackle."

The matter was put with equal force by the Scottish Courts. In *Clerk* v. *Petrie* (1879), 6 R. 1076, the Lord Justice Clerk said, "There is the strongest presumption both in fact and law against a driver who runs down a person in daylight." The same judge in *M'Kechnie* v. *Couper* (1887), 14 R. 345, said: "There is no doubt that it lies on the driver to keep clear of foot passengers. If a person is guilty of such a fault as to increase that obligation, that is another matter, but the primary obligation is undoubted—to keep clear of foot passengers."

Dicta such as these do not by any means exempt the foot passenger from a duty to use due care. Tindal, C.J., in *Hawkins* v. *Cooper* (1838), 8 C. & P. 473, in summing up in a case where a pedestrian was run down by a horse-drawn vehicle, said: "But if you are of opinion that it was not occasioned by such negligence, but can be attributable in any degree to the incautious conduct of the plaintiff herself in running across the road at a time when, in the exercise of common caution and discretion she ought not to have done so, the defendant will not be liable." Erle, C.J., in *Cotton* v. *Wood* (1860), 8 C.B. (N.S.) 568 said: "It is as much the duty of foot passengers attempting to cross a street or road to look out for passing vehicles as it is the duty of drivers to see that they do not run over foot passengers."

In *Williams* v. *Richards*, 3 Car. & Kir. 81, the plaintiff was walking along the north side of Oxford-street and was going to walk over a crossing at the entrance to Rathbone-place, with a shawl over her head, as it was raining hard, when the defendant, who was driving a spring cart across from Charles-street, Soho, turned into Rathbone-place. He called twice to the plaintiff to warn her of his approach but she did not hear him, and her clothes were caught in the cart and she was thrown down and injured. Pollock, C.B., said: "It is the duty of persons who are driving over a crossing for foot passengers, which is at the entrance of a street, to drive slowly,

cautiously and carefully; but it is also the duty of a foot passenger to use due care and caution in going upon a crossing at the entrance of a street so as not to get among the carriages and thus receive injury."

Statements such as these embody fundamental and first principles of the law of negligence, applicable whatever the traffic conditions. The degree of care required of pedestrians and drivers respectively varies according to the state of the traffic. This was never better expressed than in the words of Mr. Justice Holmes in *Smith* v. *Brown* (1891), 28 L.R. Ir. 1, where he said: "What might appear timidity on an unfrequented road would perhaps be recklessness in a crowded thoroughfare; and the quick and ever watchful eye, turning constantly from side to side, without which it would be difficult to cross the crossing in safety at Ludgate Hill or the other side of Trafalgar Square, would be wholly out of place in Denny-street, Tralee."

Mr. Justice Gibson in that case, distinguishing the case of a pedestrian crossing a railway level crossing, said: "A train moves in a fixed direction on a stationary road with great velocity, and anyone crossing knows that special precaution is necessary, and that his rights are subordinate to the rights of the railway in using the line. It is he and not the train who has to get out of the way. On a highway the rights and duties of foot passengers and drivers of vehicles are obviously different. Each is bound as far as possible to steer clear of the other."

Obviously, the right of a pedestrian to walk in the road, which was so strongly emphasised in *Boss* v. *Litton* (*supra*), 100 years ago, becomes severely limited in its application to modern traffic conditions in big cities. Street traffic nowadays, to some extent, exhibits the conditions set out by Mr. Justice Gibson for railway traffic. Tramcars and trolley-buses move in a fixed direction on a stationary road, while all traffic moves at a great velocity. Though the pedestrian's rights in modern traffic may in theory be equal to those of the drivers of vehicles, in practice they are subordinate, and his duty of keeping a sharp look out is considerably heavier than it was 100 years ago.

So far the only alteration of the rights of pedestrians that the Minister has seen fit to make is that contained in the London Traffic (Pedestrians Crossing Places) Provisional Regulations 1934, dated 8th June, 1934, which provides, *inter alia*, in para. 2 of reg. 3, that at every road junction to which the regulations apply where traffic is for the time being controlled, it shall be the duty of every pedestrian crossing the carriage-way at any such crossing place "to do so at such time and in such manner as not to hinder or obstruct the free passage of any vehicle proceeding in the general line of traffic." It is provided that vehicles turning from one road to another are not to be deemed in the general line of traffic. A maximum penalty of five shillings is imposed for a breach of this regulation. As it is also provided in para. 1 of the regulation that the duty of the driver of every vehicle turning into a road in which there is a crossing place within 150 feet of the junction is to proceed in such manner, and if necessary, to stop, so as to allow free passage to every pedestrian crossing the carriage-way at such crossing place, subject to a maximum penalty of £5, it seems that this limitation of the pedestrian's rights is little more than nominal, and only prevents what amounts to wilful obstruction. The regulation is, however, a precedent, and the report that the Minister has under consideration "the advisability of exercising powers for prohibiting foot passenger traffic on the carriage-way within 100 yards of a crossing" indicates how far the invasion of pedestrians' rights may go. Whilst it may not unreasonably be contended that any attempt to legalise a position which gives vehicular traffic an exclusive and undisputed right to the highway would be contrary not only to the common law but also to the best interests of the community, nevertheless, in places where adequate footpaths and crossing places have been provided exclusively for pedestrians, it would not appear unjust that some *quid pro quo* should be granted to vehicular traffic.

Technicalities of the Case Stated.

THE latest set of new Rules of the Supreme Court (S.R. & O. 1934, No. 747/L.20) removes one of the many pitfalls which beset the path of anyone wishing to appeal from a decision of petty sessions by way of special case. This is no doubt a result of the recent case of *Duke of Atholl* v. *Read* [1934] 2 K.B. 92. Under the old law, contained in s. 2 of the Summary Jurisdiction Act, 1857, the appellant was bound to transmit the case to the High Court within three days after receiving it, and *before* transmitting it to serve upon the respondent a notice of appeal and a copy of the case. In the case of the Duke of Atholl, these documents were not served until after the case had been transmitted to the court, although actually upon the same day. It was held that service before the case was transmitted to the court was a condition precedent to the jurisdiction to entertain the appeal. The court was therefore constrained to dismiss upon this preliminary technicality an appeal which raised a substantial question as to the lottery laws. Paragraph 3 of the new rules provides that at the end of Ord. LIX of the Rules of the Supreme Court the following rule shall be added:—

> "22. Where a case has been stated by justices under section 2 of the Summary Jurisdiction Act, 1857, or under section 33 of the Summary Jurisdiction Act, 1879, the appellant shall—
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> (*a*) within ten days after receiving the case transmit it to the High Court; and
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> (*b*) within fourteen days after receiving the case serve on the respondent a notice in writing of the appeal, and a copy of the case."

The part of s. 2 of the Summary Jurisdiction Act containing the old provisions referred to above is repealed. The appellant is thus given more time, and may serve the documents upon the respondent either before or after transmitting the case to the High Court. The whole matter remains, however, bewilderingly complicated, and highly technical. An appellant must discover the proper procedure, not from any one statute or set of rules, but from the two Summary Jurisdiction Acts, r. 52 of the Summary Jurisdiction Rules, 1915-22, such of the Crown Office Rules as are applicable, and the new rules of 1934, and he must also consider how these provisions have been interpreted in a number of cases, which are not always consistent. Any failure to observe the proper procedure may mean that the appeal will be struck out. It may, therefore, be useful to state shortly the principal technical requirements.

1. An application in writing to the justices to state and sign a case must be left with the clerk, together with a copy for each of the justices, within seven clear days from the proceedings in question (r. 52, Summary Jurisdiction Rules, 1915-22).

In calculating the time, Sunday is not to be excluded: *Peacock* v. *The Queen*, 4 C.B.N.S. 264. The justices may be served separately with copies of the application: *Rex* v. *Woodcock* [1907] 2 K.B. 104.

2. At the time of making the application, and before the case is stated and delivered to him by the justice or justices, he must enter into a recognizance to prosecute the appeal, and to abide by the judgment of the court, and must pay all fees which are then due (s. 3, Summary Jurisdiction Act, 1857). It is sufficient if the recognizance is entered into at any time before the case is actually stated and delivered by the justices (*Stanhope* v. *Thoresby* (1866), L.R. 1, C.P. 423). If the appellant is a body corporate, the recognizance must be entered into by an agent, duly authorised for the purpose. If the agent was not authorised before entering into the recognizance (*Southern Counties Deposit Bank* v. *Boaler*, 59 J.P. 536), or if the recognizance purports only to bind the goods of the agent (*Leyton U.D.C.* v. *Wilkinson* [1927] 1 K.B. 853), the recognizance is insufficient, and the appeal will be dismissed.

3. The case is to be stated within three calendar months from making the application (r. 52, Summary Jurisdiction Rules).

4. The case must be transmitted to the High Court within ten days after its receipt from the justices (R.S.C., Ord. LIX, r. 22, *supra*). It is lodged in the Crown Office, and it is sufficient if it is lodged in the building, though after office hours, on the last day (*Holland* v. *Peacock* [1912] 1 K.B. 154). After the expiration of the time, the case is dead, and the justices have no power to amend it (*Gloucester Board of Health* v. *Chandler*, 32 L.J., M.C. 66).

5. Within fourteen days after receiving the case, the appellant must serve on the respondent a notice in writing of the appeal, and a copy of the case (R.S.C., Ord. LIX, r. 22). The time starts to run from the day when the appellant's country solicitor receives the case, and Sunday is included (*Pennell* v. *Uxbridge*, 31 L.J., M.C. 92). The decisions upon service are numerous, and in some points conflicting, and no good purpose would be served by reviewing them in full. The following rules are suggested, as supported by the weight of authority :—

(*a*) If possible, personal service should be effected. In *Godman* v. *Crofton* [1914] 3 K.B. 803, it was held that service on the respondent's solicitor was sufficient, even where personal service was not impossible, but in view of the contrary decision in *Hill* v. *Wright* [1896] 60 J.P. 312, and of dicta in other cases, it seems safer to effect.

(*b*) If personal service cannot be effected, service on the solicitor is sufficient (*Syred* v. *Carruthers*, E.B. & E. 469; *Wills* v. *McSherry* [1913] 1 K.B. 20).

(*c*) It is submitted that even where it has not been possible to effect any kind of service, whether personal or by a solicitor, the case will be heard if it is shown that the appellant has done everything in his power to effect service. *Foss* v. *Best* [1906] 2 K.B. 105, is a decision to the contrary, but in view of the comments upon that case in *Wills* v. *McSherry*, it is doubtful whether it would now be followed, and the principle as stated above is supported by weighty dicta in many cases.

Most of these technical requirements have been held to be conditions precedent to a right of appeal, so that where they have not been complied with the appeal must be dismissed. Thus it has been held fatal that there was no proper application in writing for a case to be stated (*Lockhart* v. *Mayor, etc., of St. Albans* (1888), 21 Q.B.D. 188); that the application was not made in time (*Peacock* v. *The Queen*, *supra*); that the recognizance was not entered into before the delivery of the case by the justices (*Walker* v. *Delacombe*, 58 J.P. 88); that it was not properly entered into (see cases above); that it was not transmitted to the High Court within the time limited for this purpose (*Gloucester Board of Health* v. *Chandler*, *supra*); that the conditions as to service on the respondent had not been complied with (*Atholl* v. *Read*, *supra*). On the other hand, the provision that the case must be stated within three months is merely directory, as to the acts of the justices, and failure to comply with it strictly will not be fatal, if such failure is not due to any default by the appellant (*Hughes* v. *Wavertree Local Board*, 58 J.P. 654), but it seems that even so the justices would not be ordered to state a case after this time limit had passed. In *Rex* v. *Stoke-on-Trent Justices* [1926] 2 K.B. 461, the court refused to order the justices to state a case where copies of the application for the justices had not been delivered in time, but left open the question whether breach of the time limit would preclude the court from hearing the appeal, even when the case had been stated. It has been said that compliance with the requirements will be excused where it has become impossible through no fault of the appellant (see *Woodhouse* v. *Woods*, 29 L.J. M.C. 149); and this principle has been applied in the case of service; and where the case could not be transmitted to the court in time, owing to the closing of the Crown Office (*Mayer* v. *Harding*, L.R. 2 Q.B. 410); and where the case could not be signed by all the justices who heard the case (which is ordinarily a condition precedent) because one had died (*Marsland* v. *Taggart* [1928] 2 K.B. 447). Otherwise, if the conditions have not been complied with strictly, the court is bound to strike out the appeal, even though both parties are anxious that it should be heard (*Westmore* v. *Paine* [1891] 1 Q.B. 482).

Matters would be greatly simplified if the whole procedure were clearly set out in a single code of rules, but reform might well go further. Judges in the past have frequently expressed regret at being bound to dismiss appeals upon purely technical grounds, and it is hard to see any sufficient reason why the court should not be given power to grant extensions of time, and to hear appeals even where the rules have not been complied with, so long as the respondent has suffered no prejudice thereby, and there has been no unreasonable delay.

Book-keeping for Solicitors.

III.

Before considering the use of the books set out in the last article, it would be as well to emphasise again the fact that no matter what book-keeping system is adopted, it will fail to give satisfactory results unless a rigid rule with regard to the entering, posting and balancing of the books is adhered to strictly. The keeping of proper financial records is a duty which the solicitor owes both to his clients and to himself, and he should treat the keeping of these records as an important part of his daily work.

We will deal firstly with the cash received and paid, whether on clients' account or otherwise. A practice should be established of entering into the cash book all sums immediately they are received, the clients' moneys being entered in the inside column of the left-hand or debit side, and the solicitors' own moneys being entered in the outside column. No sum should be taken directly into petty cash, but all cheques and cash received should be banked daily. Similarly, all sums paid out should be entered at once in the appropriate column on the right-hand or credit side of the cash book. So far as the payments are concerned, it will be appreciated that all of these that are entered in the general cash book will be made by cheque, for the general cash book is a record of banking transactions. It follows, therefore, that at any given moment the solicitor can ascertain the balance of the banking accounts by finding the differences between the two sides of the cash book, the difference between the two inside columns representing the balance on clients' account, and the difference between the two outside columns representing the balance of the solicitor's own account.

Whilst dealing with this question of cash received and paid, it will be convenient to notice the treatment of those amounts which are received by cheque or otherwise in favour of some third party, to be passed on to them by the solicitor, and also those cases where the cheque is made out in favour of the solicitor and is endorsed over by him instead of being passed through his bank. It is not unusual for the solicitor to neglect to make an entry of these items in his books, but such an omission cannot be recommended, and it is far better to keep a permanent record of such items in the books by entering them "short," that is, the amount should be entered in the cash book on both sides as a receipt and payment in the ordinary way, but instead of the amount being extended into the money columns, it should be recorded only in the particulars column. The items may then be posted into the ledger "short" so that there is a record preserved of all amounts which have passed through the solicitor's hands on clients' account. It is the practice of some to pass the items through the money column in red ink, but this procedure is not to be recommended as it is apt to prove confusing when adding up the column.

The items appearing in the cash book will then be posted into the ledger, and it is advisable for this to be done daily. Even with a large practice, the process will only take a few minutes at the end of a day, and the advantage is that the records are kept constantly up to date. The reader will be familiar with this process of posting, which is nothing more or less than completing the double-entry. The items in the cash book on the credit or right-hand side are posted to the left-hand side or debit side of the appropriate account in the ledger.

Little difficulty will be experienced with the debit side of the cash book, for practically all of the items will affect a client's account in the ledger. Care must be taken to see that the items in the inside or clients' column of the cash book are posted to the inside column of the ledger. The items in the outside column of the debit side of the cash book will, in the main, represent moneys received in respect of costs.

Similarly, there will be no difficulty about the inside column on the credit side of the cash book, for these items will represent payments out of clients' moneys and will be posted to the debit of the appropriate client's account in the ledger. It will be apparent, therefore, that if the books are kept up to date, the solicitor will be able, at any given moment, to compile a list of clients' balances from the ledger, and the total of this list will be equal to the balance of the clients' account at the bank, as shown by the difference between the two inside columns of the general cash book.

Those items in the outside columns of the credit side of the cash book will present more difficulty, however. They may be divided broadly under the following headings:—

(*a*) those payments which represent sums advanced on clients' account;

(*b*) disbursements made by the solicitor in the course of the business and which will be included in the bill of costs; and

(*c*) the solicitors' office and personal expenses.

Those items falling under heading (*a*) will be posted to the clients' account in the general ledger, care being taken to see that they are posted to the outside debit column. Those under heading (*b*) will be posted to a clients' total disbursement account in the private ledger, and at the same time will be entered on to the draft entry sheets for inclusion in the bill of costs. Those items falling under heading (*c*) will be posted to the debit of the appropriate account in the private ledger. Thus, the double-entry in respect of the whole of the general cash book items will be completed. A disbursements book is sometimes used for the items under heading (*b*), but this is unnecessary.

The entering and posting of the remainder of the books will present little difficulty. The bills rendered to clients will be entered in the bills delivered book as and when they are delivered. Each item will then be posted to the debit of the appropriate client's account in the general ledger, bearing in mind that the outside column is the column to be used. The double entry is completed by posting the total of the amounts entered on the bills delivered book to the credit of a bills rendered account in the private ledger. There is no necessity to go to the trouble of separating the profit costs from the disbursements and the total of the bills should be posted. The actual profit for a period can be readily ascertained by a simple adjustment which will be explained later.

The allowances book will be dealt with in the same way, except that the appropriate clients' accounts will be credited with the individual items, and the allowances account in the private ledger debited with the total of these items at the end of the financial period.

The transfer journal is merely used as a medium for posting items from one account in the ledger to another, for example, where the solicitor is instructed to transfer money from the account of client A to the account of client B. It is useful insofar as it preserves a chronological record of transfers.

The treatment of petty cash items has purposely been left over, and will be dealt with in the next article, when various other practical points, such as the transfer of money from the clients' banking account to the solicitors' banking account, and the process of making up accounts at the end of the financial year will be touched upon.

Company Law and Practice.

Residence for the purposes of Income Tax.

I HAVE had recently to consider the question of how far a company can be said to be resident in this country for the purposes of income tax, and I think that the subject, though not one perhaps of frequent occurrence in practice, is not without its interest. The difficulty that does arise is the result, as has been pointed out more than once in the cases on the subject, of the fact that the use of the word "residence" in the Income Tax Acts is founded upon the habits of a natural man and is in consequence not altogether easy of application to an artificial legal person: in order to apply the Acts at all, an artificial residence has to be ascribed to the artificial person, and this is done by applying the analogy of the residence of natural persons. "A company cannot eat or sleep, but it can keep house and do business"; and on those lines it is usually possible to determine where a company's residence is. It sometimes involves, however, considerable straining of the analogy, for "resident" is hardly a term suited to describe a statutory "person," and it is then that difficulties arise.

I think that the earliest case of importance is that of the *Cesena Sulphur Co., Ltd.* v. *Nicholson*, L.R. 1 Ex. D. 428.

The company was incorporated under the Companies Acts and was afterwards registered in Italy. It was founded to carry on the business of sulphur mines in Italy, and for that purpose to purchase sulphur mines there. It was managed by a board of directors, who held their meetings at the registered office in England: under the articles the board managed the working of the mines and the general business of the company, though the practical management of the mines in Italy was carried on by several members of the board who were resident there. The operations connected with the manufacture and sale of sulphur were exclusively carried on in Italy, and it was there that the company's profits were earned; and the only part of these that were sent to England were the dividends required for English shareholders. General meetings of the company were to be held in London, and about one-third of the shares were in the hands of English shareholders.

The court held that the company resided in England for the purposes of the Income Tax Acts, since almost every act of the company connected with the administrative part of the business was to be done in London. The test applied by the court was this: where was the place where the real and substantial business of the company was carried on? On the facts (and, of course, it is always a question of fact, and one often of considerable difficulty) that place was held to be England. A good deal was said in the case as to the effect of registration in determining residence, and on this point Huddleston, B., said (and his words have been often quoted since): "Registration, like the birth of an individual, is a fact which must be taken into consideration in determining the question of residence. It may be a strong circumstance, but it is only a circumstance. It would be idle to say that in the case of an individual the birth was conclusive of the residence. So, drawing an analogy between a natural and an artificial person, you may say that in the case of a corporation the place of its registration is the place of its birth and is a fact to be considered with all the others. If you find that a company which is registered in a particular country acts in that country, has its office and receives dividends in that country, you may say that these facts, coupled with the

registration, lead you to the conclusion that its residence is in that country."

I will mention two of several cases which illustrate the fact that registration is not, of itself, conclusive, but that what has to be decided is, where is the general control of the company? These are *Goerz & Co.* v. *Bell* [1904] 2 K.B. 136, and *De Beers Consolidated Mines, Ltd.* v. *Howe* [1906] A.C. 455. In the former case the company was registered in South Africa, but its head office was in London, where its directors' meetings were held and the directing and controlling power generally exercised. In the *De Beers Case* the company was again registered in South Africa, where, moreover, the head office was situated and the general meetings held; but the directors' meetings in London were the meetings where the real control was exercised of the important business of the company. In both cases the principle that a company resides for purposes of income tax where its real business is carried on and that its real business is carried on where the central management and control actually abides was applied, with the result that the companies were held to be resident in this country.

Authority for that principle can be found in a number of other cases apart from those I have mentioned, and as we shall shortly see it was re-affirmed by the House of Lords in the case of *Egyptian Delta Land & Investment Co.* v. *Todd* [1929] A.C. 1. In 1925, however, there was a decision of the House of Lords which it is not easy at first sight to reconcile therewith. That was the case of *Swedish Central Railway Co.* v. *Thompson* [1925] A.C. 495, the facts in which must, I am afraid, be mentioned in some detail. The company was incorporated in 1870 under the Companies Acts to construct and work a railway in Sweden. Its registered office was in London. In 1900 the railway was leased for fifty years, and the rent was paid to the company in England. Afterwards the company's articles were altered for the purpose of removing the control and management of the business from England to Sweden, and it was admitted that the business had since then been controlled and managed from the head office in Sweden. In 1920 the directors appointed a committee to transact formal administrative business in England, e.g., transfers of shares, signing of cheques, etc. Since 1920 no meetings of the company had been held in England, and the rent under the lease had been paid to the company in Sweden. No profits had been transmitted to England except to pay the dividends to English shareholders.

On these facts the Commissioners of Income Tax found that the business of the company was controlled and managed from Sweden, but that the company resided here for the purposes of income tax; and ultimately the House of Lords decided by a majority that the company might have a residence here as well as abroad, and on that assumption there was evidence to support the conclusion of the Commissioners.

The first thing to be noticed in respect of this decision is that the principle laid down by the earlier cases that, when the central management and control of a company abides in a particular place, the company has for purposes of income tax a residence in that place, was not impugned but, indeed, accepted. What the House of Lords went on to say was, that it does not follow that it cannot also have a residence elsewhere: "An individual may clearly have more than one residence; and on principle there appears to be no reason why a company should not be in the same position. The central management and control of a company may be divided, and it may 'keep house and do business' in more than one place; and if so it may have more than one residence" (per Lord Cave [1925] A.C., at p. 501). Lord Cave also pointed out that none of the earlier cases was inconsistent with this view, even if they did not establish the possibility of a company having more than one residence for income tax purposes. At first sight, however, as I have suggested, the decision is not altogether easy to reconcile with the earlier cases if only on the rather broad ground that the result seems (with respect) to be that the taxpayer loses in either case; if the company's business is, in the main, controlled in this country, it is on the authority of *De Beer's Case*, resident here; if, on the other hand, its general management is conducted abroad, it may still have a residence for the purposes of income tax in this country.

Any such doubts may, I think, be said to be effectively resolved by the decision in *Egyptian Delta Land & Investment Co., supra*. Lord Sumner points out at pp. 16–17, that the *Swedish Central Railway Co.'s Case* decided nothing more than that a company could have two residences; that in fact the business done in England by the company in that case was a good deal more than administrative, and in the static condition of the company's affairs it was not much less important than the Swedish part. Little had to be done anywhere except administration, and that was fairly divided between the two countries; and after quoting the words of Lord Cave, which appear above, he adds that they were said with reference to the fact that there was evidence of business done in England sufficient in importance and in amount to give a residence on that ground. On this view of the decision in the *Swedish Central Railway Co.'s Case*, it seems clear that there is nothing inconsistent with the principle of the earlier cases, because, as we have seen, the question of the central control of a company is one of fact, and the facts may establish an equal degree of control in more than one country at once.

Apart from this, the decision in the *Egyptian Delta Co.'s Case* is of supreme importance to the question we are discussing. There a company incorporated in England transferred the whole of its business to Egypt, and did nothing in this country beyond fulfilling its statutory requirements as to the registered office and the register of members and directors. It was sought to make the company liable for income tax on the footing that it had a residence here. The main argument in support of this contention was that registration in this country coupled with compliance with the statutory requirements as to the registered office, constituted a residence in this country for the purposes of income tax. The House of Lords rejected this: Lord Sumner pointed out that applying the analogy of the residence of a natural person, it could not be said that the existence of a registered office purely to satisfy legal formalities was a residence at all; although "the spirit of the company may be imagined to brood over these arrangements" the company itself is not there at all. The authority of the *Cesena Co.'s Case* and *De Beer's Case* was conclusive that registration does not of itself establish residence, and the performance of the statutory obligations of a company could not for income tax purposes have any different significance from that of mere registration.

In the result, therefore, the House of Lords reiterated the principle that registration (even though attended by compliance with the statutory obligations) is only one factor in determining residence, and that the residence of a company for income tax purposes is preponderantly determined by the place where its real business is carried on. It follows as a practical result, that it is possible to register a company in this country and, if its articles are properly framed and the place of its central control outside this country, at the same time to prevent it from being resident here for the purposes of the Income Tax Acts.

CENTRAL CRIMINAL COURT SESSIONS.

The following are the days appointed for holding the sessions of the Central Criminal Court during the ensuing year:—

1934.	
13th November.	4th December.
1935.	
15th January.	21st May.
12th February.	25th June.
5th March.	16th July.
26th March.	10th September.
30th April.	15th October.

A Conveyancer's Diary.

[CONTRIBUTED.]

Creditors and Purported Conveyances to Infants.

ONE of the most important features of the New Property legislation of 1925, is that legal estates in land shall be vested in persons who have power to deal with them; and hence it is not surprising to find that they prohibit the holding by an infant of such estates. This prohibition is contained in s. 19 of the L.P.A., and s. 27 of the S.L.A. By s. 19 (1) of the former Act, it is laid down that, where a conveyance is made to one or more infants, it shall operate in accordance with the provisions of the S.L.A. By s. 2, a conveyance to an infant jointly with one or more persons of full age, has the effect of vesting the property in the latter, on the statutory trusts. By sub-s. (4) a conveyance to one or more infants as trustees is to operate merely as a declaration of trust. By sub-s. (5) a conveyance made to infants and persons of full age upon any trusts, is to vest the legal estate in such persons of full age. Sub-section (6) provides that a grant or transfer of a legal mortgage of land to an infant shall operate as an agreement for valuable consideration to execute a proper conveyance when the infant attains full age. If, however, the conveyance is to an infant jointly with another person, the infant shall be deemed not to have been included therein, with a saving for his beneficial interest. Section 27 (1) of the S.L.A. provides that a conveyance to one or more infants for his or their own benefit shall operate as an agreement for valuable consideration to make a settlement.

What then would be the position if a man, who knowing himself to be hopelessly insolvent, and perilously near the verge of bankruptcy, executed a conveyance of real estate to an infant? In the first place, would it be caught by the provisions of s. 172 of the L.P.A., which provides for the avoidance of fraudulent conveyances? I think not. Sub-section (1) of s. 172 is as follows: "save as provided by this section, every conveyance of property, made whether before or after the commencement of this Act, with intent to defraud creditors, shall be voidable at the instance of any person thereby prejudiced." Sub-section (3) provides that: "this section does not extend to any estate or interest in property conveyed for valuable consideration and in good faith or upon good consideration and in good faith to any person not having, at the time of the conveyance, notice of the intent to defraud creditors." We have seen that under s. 19 (6) of the L.P.A., and s. 27 (1) of the S.L.A., a grant or transfer of a legal mortgage, or a conveyance of a legal estate in land to an infant fulfills at least one of the requirements of s. 172 (3). It is a transaction for valuable consideration. Whether the infant had notice of the fraudulent intent at the time the transaction was carried through, will be a question of fact, but, if he has not, the section appears to have been defeated. He has, however, another string to his bow, even if he is proved to have had knowledge of the fraud. It is open to him to contend on the wording of the L.P.A., s. 19 (6), or the S.L.A., s. 27 (1), that transactions under these sub-sections are not within the purview of the section at all, as they are not, in fact, conveyances as defined by s. 205 of the L.P.A. Though wide in its terms that definition does not include an estate contract.

The next question is, will the transaction be voidable under s. 42 of the Bankruptcy Act, 1914? Sub-s. 1 of that section provides that "any settlement of property not being a settlement made before and in consideration of marriage, or made in favour of a purchaser or incumbrancer in good faith and for valuable consideration . . . shall, if the settlor becomes bankrupt within two years after the date of the settlement, be void against the trustee in bankruptcy, and shall, if the settlor becomes bankrupt at any subsequent time, within ten years after the date of the settlement, be void against the trustee in the bankruptcy, unless the parties claiming under the settlement can prove that the settlor was, at the time of making the settlement, able to pay all his debts without the aid of the property comprised in the settlement, and that the interest of the settlor in such property passed to the trustees of such settlement on the execution thereof." Sub-section (4) of the same section provides that "settlement shall, for the purpose of this section, include any conveyance or transfer of property."

We have seen above that conveyances to infants operate as contracts for valuable consideration, and therefore, they do not come within the definition of settlements in s. 42 (4) of the Bankruptcy Act, 1914.

It may be argued that as the word "conveyance" is used in s. 19 (6) of the L.P.A., and s. 27 (1) of the S.L.A., transactions thereunder would be caught by the sub-section; but it is here submitted that the term "conveyance" as used in that sub-section means an assurance of property and not an instrument which purports to assure it. The learned editor of "Whartons' Law Lexicon" defines a conveyance as "an instrument which transfers property from one person to another," and I can find nothing in s. 42 of the Bankruptcy Act which warrants the extension of the term to an instrument which, though described as a conveyance by its maker, does not, in fact, effect a transfer of property, but merely operates as a contract for its transfer.

That a man who is hopelessly insolvent can defeat his creditors by purporting to convey his property to an infant, is doubtless out of keeping with the spirit of the English law of bankruptcy, and can hardly have been intended by those responsible for the property legislation of 1925.

Here is a matter which might usefully occupy a little of the time of our hard-worked Legislature.

Landlord and Tenant Notebook.

Tenant's Right of Support.

THREE possible remedies suggest themselves when the continued existence of a demised building is jeopardised by the founderous condition of a building adjoining or below it belonging to the same landlord. The tenant may be able to proceed against his neighbour, be he the landlord or another tenant, on the basis of an express or implied grant of support. Or he may claim that the state of affairs is a nuisance, in which case he may be able to proceed against his landlord even if the dangerous building be let. Lastly, the covenant for quiet enjoyment may be invoked. The last two possibilities have not been fully exploited, but recent decisions have drawn attention to their existence. And a little exploration is desirable, because where an easement is relied upon, the duty of the occupier of the servient tenement is apparently limited to not withdrawing support; to make out that he or anyone else has positive duties is a different proposition.

Those readers who are of a historical turn of mind may be interested to note that positive duties of this nature were at one time thought to be imposed by law. In a case reported in the reports of *Keilwey, Dalison & Bendloe*, at p. 98, we are told that two judges of the King's Bench held in 1532 that if one party had what the reporters call "*un meason pavaile*" and the other "*un haute meason*" above it, "*sicom ils ont cyens en Londres*" (flats are not a modern invention!), the parties had reciprocal rights, the occupier of the ground floor being entitled to have the upper structure kept in repair by the occupier of the maisonette, who, in turn, was entitled to have the ground floor maintained in good condition by its occupier. But according to some members of the court, the duty of the latter did not extend so far, but was merely a duty not to demolish. When the case of *Pomfret* v. *Ricroft* (1669), Saund. 321 was heard at first instance, *obiter dicta* of Rainsford, J., endorsed the opinion that positive duties

were imposed. The claim was by a tenant of a house entitled to the use of a pump on adjoining land excepted from the demise. He complained that the landlord had allowed the pump to get out of repair, thus depriving him of its use and occupation. Rainsford, J., delivered the majority judgment of the court below, which, based on implied covenant, was in his favour, and in the course of his observations said that the tenant of a middle room had an action of covenant against his landlord if the latter failed to keep the roof in repair. Twysden, J., delivered a dissenting judgment, and this was approved by the Exchequer Chamber, presided over by Hale, when that court allowed the appeal. But nothing was said of the analogy of the middle room; Hale illustrated his views by a picture of a borrower of a piece of plate complaining to the lender that it had got worn. The next decision in point is an anonymous 1703 case, in 11 Mod. 7, which laid it down that the occupier of a lower room could compel the occupier of an upper room to repair the roof, and was obliged to maintain his own part of the premises.

It will have been observed that the two anonymous cases referred to say nothing about any relationship of landlord and tenant, while the *obiter dictum* in *Pomfret* v. *Ricroft*, implying a covenant, does visualise a tenancy of some sort. This may be important because the judgments in what is now the leading case on the right of support, *Richards* v. *Rose* (1853), 9 Ex. R. 218, are based on the principle of implied grant and reservation. The parties in that case occupied adjoining houses held of the same ground landlord and active interference was proved, but the decision would have been the same if they had been freeholders. It was therefore open to the plaintiff in *Colebeck* v. *Girdlers' Company* (1876), 1 Q.B.D. 234, whose irregularly-shaped premises were contiguous to one side and the top of an archway, to contend that his landlords were under an implied covenant to keep the wall of the other side in repair. That wall was, in fact, part of premises let to another tenant, so no question of easement was raised. But it was held that they were under no such *positive* duty. This decision was followed, in Ireland, in *Scales* v. *Vandeleur* (1913), 48 I.L.T. Rep. 36, 38, in which the defendant, who had not occupied either of two foundrous properties for fifty years, was held not liable when one collapsed and pulled down most of the other with it.

But since then there have been two decisions in landlord and tenant matters which between them may conceivably modify the rule. *Booth* v. *Thomas* [1926] Ch. 397, is an authority which shows that under a covenant for quiet enjoyment, even an implied covenant, a landlord may be liable to perform positive acts. The breach complained of was the failure to repair a culvert on adjoining land belonging to and occupied by the lessor; when the culvert burst, the demised land was flooded and a hut swept away. Pollock, M.R., in his judgment, said that there was no logical distinction between positive and negative duties, and this is important, for the distinction was much stressed in older authorities, including *Pomfret* v. *Ricroft*, *supra*, and *Colebeck* v. *Girdlers' Company*, *supra*.

The other more recent authority is *Wilchick* v. *Marks* (1934), 50 T.L.R. 281; 78 Sol. J. 277, which was discussed in the "Notebook" on 23rd and 30th June last (78 Sol. J. 443, 464). One of the two important rules laid down in that case was that a landlord who does, or at all events who reserves the right to do, repairs, is responsible to third parties injured in consequence of non-repair. Formerly, it was thought that liability was imposed only if he had covenanted to repair. In other words, this authority extends the meaning attached to "*utere*" in the maxim "*sic utere tuo ut alienum non lædas*," a maxim cited and more rigidly interpreted in the older cases. In those I have mentioned the position was as follows: in *Pomfret* v. *Ricroft*, there was no evidence that the landlord reserved the right to repair the pump, to the use of which, moreover, the plaintiff was entitled: in *Colebeck* v. *Girdlers' Company*, the neighbouring tenant was under a covenant (which he had broken) to keep the wall in repair; in *Scales* v. *Vandeleur*, we are not told of any rights or covenants. So it certainly seems that a landlord may now, under his covenant for quiet enjoyment, be liable for failure to support the offending premises, though let, as long as their tenant has not expressly covenanted to repair, for their condition constitutes a nuisance.

Our County Court Letter.

PRIVET HEDGE AS AN ESTOPPEL.

In a recent case at Pocklington County Court (*North* v. *Burnett*) the claim was for damages for trespass by reason of the erection of a wooden boundary fence, which encroached five feet on the plaintiff's land. The evidence was that the parties had bought adjoining plots of land from a common vendor, and the defendant (while denying any trespass) contended in the alternative that (1) he had had the leave and licence of the plaintiff, who had planted a privet hedge in 1933, thereby fixing his own boundary; (2) the plaintiff could not afterwards allege that, having made a mistake, he was entitled to sue for trespass. The plaintiff's case was that his leave and licence (if any) had been terminated by notice, and his claim for damages arose thereafter. His Honour Judge Beazley held that the boundary had been agreed (as appeared from the planting of the hedge by the plaintiff) and the defendant had only acted in pursuance of the agreement. Judgment was therefore given for the defendant, with costs.

THE RIGHTS AND LIABILITIES OF INSURANCE BROKERS.

In the recent case of *Wray and Co.* v. *Walker*, at Birmingham County Court, the claim was for £6 12s. 4d., being two quarterly instalments of a premium on a motor insurance policy. The plaintiff's case was that (1) in July, 1933, an agreement was made whereby they insured the defendant's car with the North and South Insurance Co. Limited, her premium being payable by four quarterly instalments of £3 6s. 2d.; (2) in December the insurance company went into liquidation, and the plaintiffs became liable for the last two instalments. The defendant's case was that (*a*) the policy was invalid, as her car was not insured thereunder, and she had rightly rejected the plaintiffs' offer to insure her car elsewhere, as a higher premium had been demanded; (*b*) by reason of her car having become uninsured, she had lost the use of it, whereby she was entitled to damages by way of counter-claim. Having reserved judgment, His Honour Judge Dyer, K.C., held that the plaintiffs were entitled to succeed, and judgment was therefore given in their favour on the claim and counter-claim, with costs.

EMPLOYERS' REPORTS TO MINISTRY OF LABOUR.

The question of whether an insured contributor was entitled to damages for libel was recently considered in the Liverpool Court of Passage. In *Lannigan* v. *Hawley* the plaintiff was aged eighteen, and his case was that (1) in July, 1932, he had entered on a five years' apprenticeship to the defendant, his wages for the first year being 5s. per week of fifty hours; (2) he had worked for one year (doing much overtime and occasionally having differences with the foreman), but was dismissed in July, 1933, without wages or notice, in consequence of his having advanced the works' clock by ten minutes; (3) on applying for unemployment benefit, he found that the defendant had reported as follows: "This youth has previously been suspended for one week as a final warning for disregard of foreman's authority. I am of the opinion that this youth needs a very strong lesson, as, in spite of several warnings, he has shown an absolute disregard of authority, and has furthermore proved himself to be a liar. I am also of the opinion that it would be a miscarriage of the purpose

of unemployment pay if any grants are made in this instance." The defence was that the report was made without malice and from a sense of duty, the words being true in substance and in fact. The presiding judge, Sir W. F. K. Taylor, K.C., remarked that an employer should feel at liberty to state the full facts, without peril of an action for defamation. It was held that the report was privileged, and, in the absence of any improper motive, judgment was given for the defendant, with costs. For circumstances in which damages are recoverable, by reason of a finding of malice, see *Collins* v. *Whitehead* [1927] 2 K.B. 378.

RECENT DECISIONS UNDER THE WORKMEN'S COMPENSATION ACTS.

HOUSE PAINTER'S FALL FROM LADDER.

In *Billington* v. *Robotham*, at Rugby County Court, an award was claimed on the following grounds: (1) In March, 1932, the applicant (while painting a window) had fallen from a ladder, and had sustained an injured jaw; (2) as his pre-accident wages were 48s. he was paid 24s. a week compensation until the 24th November, 1933; (3) in July, 1932, the extraction of a tooth damaged the fractured jaw, and in September, 1932, he had a bone-grafting operation at St. Bartholomew's Hospital; (4) another operation became necessary, and, after thirteen weeks' electrical treatment at Rugby, he saw a nerve specialist, without any beneficial result; (5) since April, 1933, he had delivered eggs daily in a car, but had had to lie down on reaching home; (6) the medical evidence was that (on the 16th May, 1934) he could not open his mouth to the normal extent, and was still under disability from the accident. In view of an offer by the respondent (to re-employ the applicant as a painter) the case was adjourned for three months, but it was subsequently announced that a settlement had been agreed for £100, including costs, not exceeding £40. His honour Judge Drucquer recorded the agreement, expressing the view that the applicant might easily return to full work and efficiency.

FARM WORKER'S FALL FROM HAY CART.

In *Watkins* v. *Greene*, at Ludlow County Court, the applicant's case was that (*a*) he was sixty-five years of age, and had earned £2 16s. a week; (*b*) on the 19th July, 1933, he had fallen about eight feet from a hay cart, and—in December—he was still suffering from a stiff neck, and could not turn his head or move his shoulders; (*c*) liability had been admitted and compensation paid until March last. The respondent's case was that (1) the applicant's wages were only £2 6s. 8d. a week; (2) in March, 1934, an insurance inspector saw the applicant using a heavy pick (without difficulty) for ten minutes; (3) a subsequent X-ray revealed no disorder. His Honour Judge Samuel awarded £150 and £15 15s. costs (by consent) in full settlement.

HEART STRAIN NOT AN ACCIDENT.

In *Walker* v. *New Hucknall Colliery Co. Ltd.*, at Mansfield County Court, the applicant's case was that (1) on the 20th June, 1933, while working in a stall, he had lifted a loaded tub, which had run off the rails; (2) he then collapsed, and an electro-cardiogram (taken in May) showed that his heart was affected; (3) although this might be due to age, the condition was hastened by the strain. The respondents' case was that (*a*) although the deputy had been informed of the occurrence, he had attributed the applicant's condition to illness, and had not reported an accident; (*b*) all that had happened was that the applicant had been taken ill at work, and he had not suggested any accident to his panel doctor; (*c*) the pains felt by the applicant were due to pleural trouble, of which there were definite symptoms. His Honour Judge Hildyard, K.C., gave judgment for the respondents, with costs.

Correspondence.

[*The views expressed by our correspondents are not necessarily those of* THE SOLICITORS' JOURNAL.]

The Report of the Board of Control.

Sir,—The admission by the Lunacy Board that 2,400 were needlessly certified last year is damning evidence of the urgent need for radical reform of the lunacy laws. It is exasperating to be told that no one is responsible for such a deplorable state of things.

As a matter of fact, this Society, in a deputation to the Minister of Health at the time, pointed out that the Mental Treatment Act was not likely to succeed for the simple reason that it sought to remove the stigma associated with lunacy, whilst insisting that the sufferer from early mental trouble should come under lunacy control!

It is a blessing in disguise that the Mental Treatment Act should already have failed to do what was expected of it, for the authorities will now be compelled to introduce an entirely new lunacy code, as was, in fact, recommended by the Royal Commission which reported in 1926.

The system at present in vogue tends to "*manufacture*" lunacy rather than cure it, and obviously the common sense method by which to cope with the problem would be to cut off the supply, by arranging for the early treatment of cases apart from lunacy administration and control.

The question calls for a complete change of front. It is disgraceful that the recovery rate of mental illness should have remained stationary for the last thirty or forty years.

In a nutshell, the public has little confidence in the asylum system, and where there is no confidence, there can be no cure.

FRANCIS J. WHITE,
Secretary,
National Council for Lunacy Law Reform.

Southampton-row, W.C.
8th October.

Obituary.

MR. E. C. BARTLETT.

Mr. Ewart Charles Bartlett, LL.B., solicitor, a partner in the firm of Messrs. Colbourne, Bush & Bartlett, of Brighton, died recently at the age of forty-nine. He was admitted a solicitor in 1906.

MR. P. GLANFIELD.

Mr. Percy Glanfield, solicitor, partner in the firm of Messrs. Glanfield and Lansdell, of Torquay, died at Babbacombe on Wednesday, 3rd October, at the age of forty-nine. Mr. Glanfield served his articles with Messrs. Hutchings and Hutchings, of Torquay, and was admitted a solicitor in 1907. He had practised at Torquay for several years, first with his brother, the late Mr. J. W. Glanfield, and later with Mr. F. C. Lansdell.

MR. W. C. GOULDING.

Mr. William Corbett Goulding, solicitor, of Moorgate, E.C., and Croydon, died in a nursing home at Croydon on Wednesday, 10th October, at the age of seventy-one. Mr. Goulding was admitted a solicitor in 1887.

MR. A. T. IVENS.

Mr. Alfred Thomas Ivens, retired solicitor, of Cheltenham, died on Friday, 5th October, in his seventy-ninth year. Mr. Ivens was educated at Mill Hill School, and was admitted a solicitor in 1878. He practised in the Isle of Wight until 1908, when he took over the practice of the late Mr. Arthur Lamb, of Cheltenham. In 1928 he was joined by Mr. Theodore Thompson, and they practised together under the title of Messrs. Ivens & Thompson. Mr. Ivens retired in 1929.

POINTS IN PRACTICE.

Questions from Solicitors who are Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to the Editorial Department, 29-31, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

Trust for Sale—Widow as Sole Executor.

Q. 3048. Testator dies in 1931, having by his will (dated 1908) appointed his widow and two other persons (who, in fact, predeceased him) to be his executors and trustees. By such his will testator leaves his residuary estate to his trustees upon trust for sale, his wife being given the income thereof for her life, at her death or second marriage the estate to go to the children. The will was duly proved by the widow, as sole surviving executor. The estate consists of several lots of freehold property, all of which it has been deemed prudent to retain, the widow, of course, receiving the rents. No immediate sale of either of the properties is contemplated. It is desired to know whether in these circumstances there is any necessity for formal assents to be prepared in the case of each lot of property—and, if so, whether the widow, as sole personal representative, should simply assent to the property vesting in herself on the terms of the will, or whether she must first of all appoint another trustee, so that they may both give such assent, and in the latter case what further documents, if any, may be necessary to put the title in proper order.

A. The widow, the sole executor, should assent to the vesting of the property in herself upon the trust for sale contained in the will and should then appoint another trustee. *Probably* it would be equally correct if she appointed the trustee first and then assented to the vesting of the property in herself and the other trustee. In no case would the appointment give the appointee power to execute the assent as he would not be a personal representative. As it is not clear that it is proper to assent after the appointment, it would be better, as recommended, to make the assent first in the widow's own favour. It is not clear that the widow has the right to charge against the estate a separate assent for each lot of property, but it is obviously more convenient for the purposes of title to have a separate one for each separate property. The only document common to all the titles will then be the appointment of new trustee.

Covenant to Erect Fences on Request.

Q. 3049. By a lease made in 1922 a plot of land was demised for 999 years, at a yearly rent, and the lessee covenanted with the lessor to erect a dwelling-house thereon with the necessary outbuildings and to keep the same and all other buildings for the time being erected thereon with all fences and palisades in good repair and condition to the satisfaction of the lessor, and also that the lessee would " when required so to do by the lessor or his agent enclose the said plot of land on all sides with palisades or boundary walls previously approved of in writing by the lessor or his agent." For the last twelve years the land and outbuildings have been fenced off from the adjoining land of the lessor by certain fencing equivalent to palisades, but the lessor, through his agent, calls these " temporary fences," and is now requiring the erection of brick boundary walls in their place. In view of the alternative fences quoted above, and the fact that palisades have been erected since the beginning of the term, is the lessor entitled to require a more costly fence of a different kind to be substituted ?

A. There is, as far as we are aware, no direct authority on a similar covenant. In Woodfall's " Landlord and Tenant " the common law rule that a covenant cannot be discharged before breach otherwise than by deed is referred to, and it is said that the Judicature Acts do not seem to have altered the rule that even a parol licence dispensing with such terms could not be pleaded in bar to an action. Though, of course, an agreement for valuable consideration to vary the terms may now be pleaded in equity. Before request, there could clearly be no breach, and the opinion is given that no request for twelve years is not a legal bar. Further, there is no waiver of forfeiture merely by acceptance of rent. If, however, the lessor proceeds by way of action for forfeiture, it is considered the court would be entitled to take into account all the circumstances, and it *might be* that circumstances would show that the lessor stood by and allowed the lessee to erect such a fence as the lessor approved of as a palisade, and in such case relief might be granted against forfeiture notwithstanding want of approval in writing.

Blood Test as Evidence.

Q. 3050. We shall be glad if you will advise us whether, and in what circumstances, a defendant can apply for a blood test, and what the procedure is. We shall also be glad if you can refer us to any cases dealing with the effect of this kind of evidence.

A. There is no prescribed procedure for a blood test, and the only course is to apply for an adjournment in order that the child and the defendant may both have a blood test. This is dependent upon the consent of the complainant, as there is no jurisdiction for the court to order such a test. The only value of a blood test is that it may prove non-paternity, i.e., that the defendant is not in the same blood group as the child. On the other hand, it may show that the defendant is in fact in the same blood group as the child. This will not be evidence that he is the father, and it will only show that he is one of thousands (in the same blood group) who may be the father. To this extent a blood test may be disadvantageous to the defendant. There are no reported cases on this kind of evidence, but the subject was discussed in an article entitled " Blood Groups in Affiliation Cases," in *The Justice of the Peace* for the 2nd June, 1934 (98 J.P. & L.G.R. 355). Even if the consent of the complainant is obtained (and an adjournment granted), the cost of the tests, and the expenses of calling the expert witnesses, will be payable by the defendant, who will probably be unable to recover them (even if successful) from the complainant.

Will—Construction—Balance of Dividends and Income.

Q. 3051. A testatrix, who recently died, by her will bequeathed certain shares to her trustees B and C upon trust to collect and receive the dividends and income thereof or produced thereby, including the dividends current thereon at the time of her decease, and in the first place thereout to pay to A an annuity of £78 per annum during her life free of duty, and upon trust to pay the balance of such dividends and income to B during his life, and after the death of B in trust during the life of A to pay the balance of such dividends and income to C, and from and after the death of A then upon trust as to both the capital and income of all the said shares for C absolutely. The residue of the estate was, subject to payment of debts, duties and funeral and testamentary expenses, given to B and C in equal shares. A, B and C are all alive. I shall be glad to have your opinion, with any authority you can give, as to whether in case A predeceases

B the whole of the dividends and income produced by the said shares will then be payable to B during his life: in other words, will "the balance" under such circumstances then represent and cover the whole of such income? If not, what will the position then be? It is assumed that the present interest of C in the *capital* value of the said shares is, subject to the said annuity payable to A and life interest therein of B, a vested one, and not contingent upon his surviving A and B.

A. We have not been able to find any authority which is directly in point. There is an Irish case, *Re Burke Irwins Trusts; Barrett* v. *Barrett* (1918), 1 Ir. R. 350, where a testatrix had a general power of appointment of trust funds and appointed £2,000 to E and £1,000 to B and the balance of the trust funds to E and M. B died in testatrix's lifetime, and it was held that the appointment of the £1,000 having lapsed it passed to E and M as part of the "balance" of the trust funds. The opinion is given that if there is nothing further in the will to indicate a contrary intention, the "balance" means the whole of the dividends and income after deduction of the £78 annuity, so long as the same is payable, i.e., during the life of A only, and is not to be deemed after the death of A merely an arithmetical balance, the result being that if A predeceased B the latter would take the whole during his life. The interest of C in the fund is a vested one, unless there are other words in the will to indicate the contrary. As B and C are alive and presumably *sui juris*, it might be considered worth while to get them to agree to take *and be bound* by an opinion of counsel on the point raised, which would set at rest any doubt that the view here expressed is wrong.

Mortgage to Building Society — Mortgagor Insane — Transfer of Mortgage.

Q. 3052. The following is a skeleton abstract of a mortgage dated 5th July, 1919: "Mr. and Mrs. A of the one part and the X Building Society (hereinafter called 'the society' which expression should include also the assigns of the society where the context so admits) witnessed that in consideration of £600 being an advance under the rules of the society Mr. and Mrs. A covenanted to repay the society by equal monthly repayments of £4 17s. according to the rules of the society on such day in each month as might from time to time be appointed by the society under the rules thereof and also to pay all fines premiums etc. according to the rules and further witnessed that Mr. and Mrs. A as beneficial owners conveyed to society 'Blackacre' to hold the same unto and to use of society its successors and assigns Proviso that if Mr. and Mrs. A made repayments according to rules and in all respects observed and performed rules mortgage should be vacated Usual provisions for sale and leasing and protection of purchaser and lessees and for repair and insurance Declaration that rules of society so far as capable of affecting transaction and except so far as same were thereby expressly varied or were inconsistent with the provisions of abstracted mortgage applied to the transaction and Mr. and Mrs. A covenanted with the society that they would during the continuance of security observe and perform such rules relating to or affecting premises." The question is: Can such a mortgage be transferred to a private individual? According to "Emmet," 12th ed., vol. I, p. 309, this is doubtful. Mr. A is now incurably insane. The mortgage has been repaid all but the last instalment of £4 17s. and it is suggested that to avoid costs of appointing a receiver or committee transfer of mortgage should be taken to solicitor's clerk, who could make title as mortgagee. The building society themselves would, of course, decline to sell as mortgagee or at least would require appointment of receiver so as to obtain good discharge for balance of purchase money. If, however, this transfer could be made, the difficulty and cost of appointing a receiver would be avoided.

A. In a modern building society mortgage it is usual to insert a stipulation to the effect that if the mortgage is transferred it should be deemed to be a mortgage for the amount then owing to the society, with interest at x per cent. per annum. It may be that in the abstract referred to in the query some such provision has been omitted. In the absence of the provision, although it is clear that the building society can transfer the debt and also the securities, it is not clear that the transferee's power of realisation by sale could not be objected to. In the case of *Sun Permanent Benefit Building Society, the Western Suburban, etc., Building Society*, referred to in "Emmet," where there was a definition clause to the effect that the society should include its assigns where the context required or admitted, Lord Justice Younger said: "As I read the specimen mortgage deed which has been put before us the transfer of the security to a transferee would not enable that transferee to exercise the powers of realisation which are conferred by clause 5." Under the circumstances, therefore, it is possible that such a transfer as is suggested in the query might lead to expense in the way of litigation exceeding that of appointing a receiver. Of course, if there is in the mortgage such a clause as is referred to in the first part of this answer, the difficulty would be overcome. The present writer, however, fails to see even in such event how a transferee would justify dealing with the net proceeds belonging to the mortgagor without the authority of an order in lunacy.

Will—Settlement—No Life Tenant—Cesser—Absolute Reversion—Title—Sale.

Q. 3053. A, by his will, made in 1880, gave and devised unto his daughter-in-law, M.J.B. (widow), all his real estate In trust to apply the rents and annual proceeds for and towards the maintenance, support, education and advancement of the three children of M.J.B., and upon her death gave and devised his said real estate unto his grandson, E.B., and appointed the said M.J.B. executrix of his said will, who duly proved the same in the year 1880. M.J.B. died in February, 1934, and her will has been duly proved by her two executors. The property is now contracted to be sold. Kindly advise as to how title to the property should be made. As the reversioner, E.B., is resident abroad, have the personal representatives of M.J.B. power to sell the property?

A. As the children of M.J.B. are not each entitled to any defined share of the income, we express the opinion that no part of L.P.A., 1925, Sched. I, Pt. IV, is in point, and that this is a case of a settlement without any tenant for life or person having the powers of one. Accordingly, on the 1st January, 1926, the legal estate vested in M.J.B. as the trustee of the settlement (S.L.A., 1925, s. 23; S.L.A., 1925, s. 30 (3); L.P.A., 1925, Sched. 1, Pt. II, paras. 3 and 6 (*c*)). The legal estate is now in the personal representatives of M.J.B. (Ad. of E.A., 1925, ss. 1 and 3 (1) (ii)), with the duty to assent in favour of E.B., who could then sell as absolute owner (S.L.A., 1925, s. 7 (5)). It is considered that the personal representatives of M.J.B. could make a good title to a purchaser who would not be concerned to see to the propriety of the sale. There seems to be no difference in principle from the case of the personal representatives of a tenant for life on the cesser of the settlement (*Re Bridgett and Hayes' Contract*, 71 Sol. J. 910).

Nuisance from Tree Roots.

Q. 3054. A has property, the north fence of which abuts property owned by B. B on his side of the fence has planted poplar trees the roots of which grow under the fence to A's property. A has from time to time informed B of this. These roots have now actually grown under the wall of A's garage and under the drains and caused damage. A, of course, has a common law remedy to abate the nuisance, but it is required to know if A can recover against B for the damage caused by the roots to the walls and drains. References to cases would be appreciated.

A. A can recover damages for nuisance on the authority of *Lemmon* v. *Webb* [1894] 3 Ch., per Lindley, L.J., at p. 11.

To-day and Yesterday.

LEGAL CALENDAR.

8 OCTOBER.—On the 8th October, 1830, Captain Helsham was tried at the Old Bailey for the murder of Lieutenant Crowther in a duel. The prisoner had propagated a report that the Lieutenant "had been horse-whipped some time back and he had not resented it as an officer and gentleman ought." The fatal duel ensued. Mr. Justice Bayley told the jury that if the parties went out to fight a duel and death was the result of that meeting, the surviving parties in the transaction were equally guilty of the crime of murder whether fair or foul means had been used. Nevertheless, the prisoner was acquitted.

9 OCTOBER.—Lord Chief Baron Peryam died at his mansion at Little Fulford near Crediton on the 9th October, 1604. He was appointed a Justice of the Common Pleas in 1581, and thereafter he was among the Commissioners appointed for many of the most notable State trials of Elizabeth's reign, including those of Mary Queen of Scots and of the Earl of Essex. In 1593 he was promoted to be Chief Baron of the Exchequer, an office which he held for the rest of his life.

10 OCTOBER.—Lord Cowper caught a cold while travelling from London to his seat at Colne Green, in Hertfordshire, and died on the 10th October, 1723.

11 OCTOBER.—On the 11th October, 1632, Serjeant Berkeley was appointed a Justice of the King's Bench. In the Ship Money Case his opinion, learnedly and elaborately supported, was against Hampden, for he considered that though "the people of this Kingdom are subjects not slaves, freemen not villains to be taxed *de alto et basso*," yet the King could impose taxes without Parliament's consent when the safety of the kingdom in general was concerned. After the outbreak of the Civil War, Parliament for ever disabled him from holding office.

12 OCTOBER.—On the 12th October, 1743, William Chetwynd "one of the young gentlemen who boarded at Mr. Clare's academy in Soho Square," was tried at the Old Bailey for the murder of his schoolfellow Thomas Ricketts. The whole trouble arose over a piece of cake which the prisoner had refused to share with his companions. Ricketts had taken a piece uninvited and had laughed when asked to give it up. Chetwynd still had in his hand the knife with which he had cut it. In impulsive rage he stabbed the other boy. The jury found a special verdict, but before the case proceeded further a Royal pardon was obtained.

13 OCTOBER.—Charles Jasper Selwyn was born at Church Row, Hampstead, on the 13th October, 1813. His father, who was then a King's Bench reporter collaborating in "Maule and Selwyn's Reports," subsequently became Recorder of Portsmouth and a Queen's Counsel. The son was called to the Bar at Lincoln's Inn in 1840, the same year that the father became Treasurer there. He was not very brilliant, but he was accurate and reliable, and he amassed a large fortune. He was appointed a Lord Justice of Appeal, but died only eighteen months after his elevation.

14 OCTOBER.—*J. Lyons & Co.* v. *Fox* was heard on the 14th October, 1918, the question being whether restaurant proprietors who provided music during and after the service of teas and dinners were liable to entertainments duty. It was decided that they were not and Mr. Justice Darling in his judgment referred to the antiquity of the custom of having music with meals, quoting Dryden's "Alexander's Feast."

> "'Twas at the Royal feast for Persia won
> By Philip's warlike son . . .
> * * * * * *
> "Timotheus placed on high
> Amid the tuneful quire
> With flying fingers touch'd the lyre."

THE WEEK'S PERSONALITY.

"He was the most accomplished lawyer, civilian and statesman that England bore for many ages past, being consummate in the knowledge not only of the common and statute law and of the constitution of his country, but also of the law of nations, imperial institutes and canon law; and he had received from nature and cultivated by polite literature excellent endowments that gave a lustre to his great learning; a bright, quick, penetrating genius: an exact and sound judgment; a fruitful yet unluxuriant and agreeable imagination; a manly and flowing eloquence; a clear sonorous voice; a gracious aspect; an easy address; in a word all that's necessary to form a complete orator." This rather too enthusiastic estimate shows how well Lord Chancellor Cowper could appear through the rose-coloured spectacles of an ardent admirer. But with all due allowance he can justly be admitted to be one of the most notable men who have held the Great Seal, and despite Voltaire's libellous report that he had practised bigamy and written in its defence, his domestic life was one of peculiar charm. He was not over self-assertive, and in writing to his wife of his maiden speech in the King's Bench, he spoke of overcoming "the bashfulness I am naturally inclined to." Yet he became famous for his eloquence. "The ears and eyes gave him up the hearts and understandings of the audience."

POETIC DEFENDANTS.

The case of a debtor who always wrote to his creditor in verse and who sent Mr. Registrar Friend a letter ending:—

> "I close this letter with my pen
> And hope you won't bother me again,"

came before the Clerkenwell County Court recently. It reminds one of the poetic emigrant from County Clare who amused the United States in the eighties. When brought to court for failing to pay for his lodgings, he answered every question in extempore verse.

Judge.

Where do you come from?

Clareman.

Know you the hills of classic Clare?
My infancy was nurtured there,
At Carrow, by the broad Atlantic,
The crossing which has made me frantic.

Judge.

How do you live?

Clareman.

How do I live? My answer's ripe,
I live on air as does the snipe.

So the evidence went on, and the defendant in the end rhymed his way into a settlement, leaving the court in Gilbertian fashion to marry his landlady.

FOREIGN TONGUES.

A propos of the meaning of the word "racketeering," Mr. Justice Swift recently said: "I am afraid my education has not covered a study of the American language." Apparently the vocabulary of the American Bench is correspondingly limited to indigenous expressions for, when in the course of the Vanderbilt case Judge Carew asked a French witness a question dealing with "a hang over," counsel suggested: "Your honour had better ask her in French." "I can't. Can you?" retorted the judge, but counsel avoided the query. In certain times and places it is not convenient for a judge to be bilingual. In his memoirs, Mr. Napier Devitt, who spent twenty-five years on the South African Bench, tells how in the old days although most of the Johannesburg litigation was of English origin, Dutch was the only language allowed in the courts. The late Mr. van den Berg, First Criminal Landdrost, was once fined £5 by the authorities in Pretoria for using a few words of English in court. In much the same liberal spirit was the old regulation at the Inns of Court which made it a finable offence to read French with a French pronunciation.

Notes of Cases.

Court of Appeal.

Shaw and Others *v.* London County Council.

Greer and Maugham, L.JJ. 4th October, 1934.

INFANT—ACTION AGAINST PUBLIC AUTHORITY—NEGLIGENCE—CAUSE OF ACTION ARISING MORE THAN SIX MONTHS BEFORE ISSUE OF WRIT—LIMITATION ACT, 1623 (21 James 1, c. 16), s. 7—PUBLIC AUTHORITIES PROTECTION ACT, 1893 (56 & 57 Vict., c. 71), s. 1.

Interlocutory appeal from an order of Roche, J.

The plaintiffs, infants suing by their fathers-as next friends, were in October, 1932, admitted to a hospital provided by the London County Council, and in the same month it became apparent that they had contracted a disease. It was alleged that this was due to the negligence of the medical superintendent. In January, 1934, they issued a writ claiming damages against the superintendent personally and against the London County Council. After the statement of claim and defences had been delivered, an amended statement of claim was delivered in April, 1934, alleging that the children were still suffering. Roche, J., held that the Public Authorities Protection Act, 1893, barred the claim, save in so far as a cause of action arose within six months before the issue of the writ. He struck out the statement of claim giving the plaintiffs leave to plead again and raise any matters which happened within that period.

GREER, L.J., dismissing the appeal, said that the only qualification of the time limit imposed by s. 1 of the Public Authorities Protection Act, 1893, was contained in the words "in the case of a continuation of injury or damage, within six months next after the ceasing thereof." Section 7 of the Limitation Act, 1623, did not preserve the right of infants and persons under disabilities to sue within six months after their disabilities had ceased.

MAUGHAM, L.J., agreed.

COUNSEL: *Weitzman; Singleton*, K.C., and *Dickens*.

SOLICITORS: *Courts & Co.; J. R. Howard Roberts*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

Appeals from County Courts.

Leeds Corporation *v.* Jenkinson.

Lord Hanworth, M.R., Romer, L.J., and Goddard, J.

5th October, 1934.

LANDLORD AND TENANT—CORPORATION HOUSING—NOTICE TO QUIT—RENT REGULATION SCHEME—POWERS—HOUSING (FINANCIAL POWERS) ACT, 1924 (14 & 15 Geo. 5, c. 35), s. 3 (1)—HOUSING ACT, 1925 (15 Geo. 5, c. 14), s. 67.

Appeal from the Leeds County Court.

In 1929 the Corporation erected a house under the Housing Acts. In 1934 they served a notice to quit on the tenant, the house and several others having come under a scheme of rent regulation in accordance with which it was proposed to raise his rent. Under the scheme identical houses would no longer be charged identical rents. Some tenants would be charged the full economic rent and others, if they satisfied the corporation as to their means, would be charged a lower rent, the excess of rent paid by the former being used together with the subsidy under the Acts to create a "rent pool" bringing up the rent charged to the latter to the "appropriate normal rent." The tenant contended that the notice to quit was *ultra vires* as being given in furtherance of an illegal scheme of granting public assistance. Judge Woodcock made an order for possession.

Lord HANWORTH, M.R., dismissing the appeal, said that under the Housing (Financial Provisions) Act, 1924, the rent charged by the local authority in respect of the houses must not "in the aggregate exceed the total amount of the rents that would be payable if the houses were let at the appropriate normal rents charged in respect of working-class houses erected prior to 3rd August, 1914" (s. 3 (1) (*e*)). The local authority thus could not make a profit. But it could make reasonable charges (Housing Act, 1925, s. 67), and it was a matter of discretion to decide what was reasonable. Under the Act of 1924, s. 3 (1) (*f*), preference was to be given to large families: this might be given by reduction of rent. The aggregate was to be regarded and the word indicated that the contributions from different groups of houses were not necessarily equal. If a local authority's exercise of its powers is impugned as *ultra vires* the test is whether it acted unreasonably or in bad faith (*Short* v. *Poole Corporation* [1926] Ch. 66). In this case there was no such suggestion. In providing working-class accommodation under the Acts the difficulties of different classes of workers could be dealt with by different conditions of tenancies. The Act of 1924 prevented local authorities from making a profit, but did not curtail their general powers of management.

ROMER, L.J., and GODDARD, J., agreed.

COUNSEL: *Carr*, K.C., and *G. Hinchcliffe; Montgomery*, K.C., and *McKee*.

SOLICITORS: *Simpson, Curtis & Burrill*, Leeds; *King, Wigg and Brightman*, agents for *The Town Clerk*, Leeds.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

White and Another *v.* Bambridge.

Lord Hanworth, M.R., Romer, L.J., and Goddard, J.

8th October, 1934.

LANDLORD AND TENANT—CONTROLLED PREMISES—DECONTROL—RATEABLE VALUE—VALUATION LIST—RENT AND MORTGAGE INTEREST RESTRICTIONS (AMENDMENT) ACT, 1933 (23 & 24 Geo. 5, c. 32), ss. 1 (2) and 16 (1).

Appeal from the Lambeth County Court.

Under a lease of premises in East Dulwich granted in June, 1922, the rent was £75 for the first seven years, £85 for the second seven years, and £95 for the last seven years. After it had been assigned to the defendant in September, 1923, he paid two quarters' rent at the rate reserved. Thereafter, the parties having realised that this was in excess of the standard rent, he paid £57 10s., the standard rent. In 1920 the quinquennial valuation list gave the gross value of the house as £50 and the rateable value as £42, and in 1925 as £60 and £47 respectively. Subsequently the ground floor was used as a post office, and an amended valuation was obtained in 1929, that floor being exempted and the gross value of the rooms on the first floor being put at £16 and the rateable value at £12. In 1930 the quinquennial list contained a similar entry. In an action by the landlord claiming arrears of rent, the county court judge held that the rateable value under s. 16 (1) of the Rent and Mortgage Interest Restrictions (Amendment) Act, 1930, was the value shown in the valuation list, and that, this being £12, the premises were still controlled under s. 1 (2).

Lord HANWORTH, M.R., allowing the appeal, said that under s. 16 (1) rateable value meant the value shown with respect to the dwelling-house in the valuation list in force on the appointed day. But the entry showed only a value for the first floor and an exemption for the ground floor. The dwelling-house, however, was not the first floor, but the whole house. No rateable value, therefore, was shown in the list, and the defendant had not established that he came within the statutory exception in s. 1, which restored the contractual relation of landlord and tenant, save in certain cases.

ROMER, L.J., and GODDARD, J., agreed.

COUNSEL: *Collins*, K.C., and *Heathcote-Williams; Lord Erleigh*, K.C., and *S. Kerr*.

SOLICITORS: *Herbert A. Phillips; Kingsbury & Turner*.

[Reported by FRANCIS H. COWPER, Esq., Barrister-at-Law.]

High Court—Chancery Division.

In re **Sigsworth: Bedford** *v.* **Bedford.**

Clauson, J. 5th October, 1934.

INTESTACY OF MURDERED PERSON—CLAIM TO ESTATE BY PERSON CAUSING DEATH—*Bona Vacantia.*

This was an application which raised a short but interesting question as to the administration of a murdered woman's estate. The summons was taken out by Thomas Edwin Bedford, the personal representative of both Mary Ann Sigsworth and her son Thomas Bedford Sigsworth, to have it determined whether in the events which had happened Thomas B. Sigsworth the testator (*a*) became entitled to the residuary estate of his mother under her will; or (*b*) if not, whether he was entitled to share in her residuary estate, as to which she died intestate. The first defendant was Beatrice Wilson Bedford, who with the plaintiff was beneficially entitled to the residuary estate of Mary Ann Sigsworth in the event of Thomas Bedford Sigsworth being excluded from any beneficial interest therein, and was also beneficially interested in the residuary estate of Thomas Bedford Sigsworth. The second and third defendants were Albert E. W. Sigsworth and Jane Elizabeth Sigsworth, who were beneficially interested in the residuary estate of Thomas Bedford Sigsworth, who murdered his mother Mary Ann Sigsworth and then committed suicide. A coroner's jury found a verdict against T. B. Sigsworth of wilful murder of his mother and *felo de se.*

CLAUSON, J., in giving judgment, said the point was a very short one, but he had to assume that the mother was murdered by her son, and that involved the fact that the son survived his mother. It was admitted that the son or his personal representative could not claim any benefit under any testamentary disposition that there might have been, but the question was whether the son or his personal representative could claim to take his mother's estate as on an intestacy arising on the occasion of her death caused by his act. So far as this case was concerned it was contrary to public policy that a man should put forward a claim for any benefit which resulted to him from the death of the person from whom the benefit was to come. He, his lordship, proposed to declare on the assumption that the son murdered his mother and that the son's personal representatives could not claim to share as such in the distribution of the estate in respect of which the mother died intestate. There was no statutory provision in the circumstances which dealt with that devolution of the property, and the mother's estate might in the circumstances prove to be *bona vacantia.* There might be a question whether the Crown was interested, and on the assumption that the son murdered the mother, he, his lordship, made the declaration which he had indicated with liberty to amend the summons by adding the Attorney-General.

COUNSEL: *L. W. Byrne; J. Trevor Roberts; Milner Holland.*

SOLICITORS: *C. V. Young and Cowper.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

In re **Fitzpatrick: Deane** *v.* **de Valera.**

Clauson, J. 8th October, 1934.

WILL—CONSTRUCTION—MEANING OF WORD "EFFECTS."

This was a summons taken out by Herbert Deane, the administrator of the will of Miss Polly Mary Fitzpatrick, late of Brighton, as attorney of Eamon de Valera, President of the Irish Free State Executive Council and executor of the will, to have it determined whether on the construction of the will the sums of £349 4s. 6d. and £1,186 14s. 1d., which at the time of her death stood to the testatrix's account at her bank, passed under her will to the President, or whether she died intestate with regard to those sums. The next-of-kin claimed to be entitled to the sums as on an intestacy. Miss Fitzpatrick died in July, 1932. Her estate was valued at £3,107 12s. 10d. and consisted of a freehold house, the furniture in it, household goods, linen, apparel and jewels, apart from the two sums at the bank. Mr. de Valera was the only beneficiary named in the will, and he was sole executor. The material words in the will were: "I give and bequeath to Mr. de Valera my house and all my furniture and effects. No person claiming to be related to me or related to me is to have any money or property or effects belonging to me." Counsel on behalf of the next-of-kin did not dispute that the word "effects" might be a word of comprehensive meaning, but he submitted that in the present case it must be construed *ejusdem generis* with house and furniture.

CLAUSON, J., in giving judgment, said that there was no doubt that the word "effects" was a word of wide meaning, and he had to decide whether or not the testatrix intended the word to cover the whole of her property. It was perfectly plain that the testatrix had no intention that her relatives should take anything, and he must assume that she was sufficiently aware of the law of the country to know that on an intestacy relatives would take certain interests in her property. That assisted him very much in considering what really on the face of the will was the testatrix's intention. It appeared to him that her intention was that Mr. de Valera should get not only the house and furniture, but also the "effects" in the sense of everything which she had to give. He, his lordship, held that the word "effects" covered the present sums of money, that the property would pass, and that there was no intestacy in the matter.

COUNSEL: *A. L. Ungoed-Thomas; J. Neville Gray; Roger Turnbull.*

SOLICITORS: *Herbert Z. Deane; Hicks, Arnold & Bender.*

[Reported by S. E. WILLIAMS, Esq., Barrister-at-Law.]

High Court—King's Bench Division.

Director of Public Prosecutions *v.* **Phillips and Another.**

Lord Hewart, C.J., Branson and du Parcq, JJ.
5th October, 1934.

LOTTERY—SCHEME FOR SALE OF SWASTIKA NOTE-CASES—COMMISSION ARRANGEMENTS—ABSENCE OF CONTROL OVER TRANSACTIONS—LOTTERY.

This was an appeal by the Director of Public Prosecutions by way of case stated from a decision of the justices of the Pershore Division of Worcestershire. Informations had been laid by the Director of Public Prosecutions against Sydney Piers Victor Phillips and Pratton Bernard Thomas charging them under s. 41 of the Lotteries Act, 1823, and ss. 4 and 21 of the Vagrancy Act, 1824, with unlawfully publishing a scheme for the sale of chances in a lottery without the authority of any Act of Parliament. The case stated set out that the respondents were the only directors of Farm and Road Engineering Co., Ltd., of Pershore. In March, 1932, they originated a scheme for the sale of Swastika note cases which provided that buyers of the note-cases, at the price of £1 each, should attempt to sell four other note-cases to other purchasers. The seller received no commission on the first three sold, but on the fourth he received a commission of ten shillings. The sub-purchasers, in their turn, were to seek to sell four note-cases, and on the first three of those the commission was to go to the original purchaser, and on the fourth to the sub-purchaser. The original purchaser might thus obtain commission on a number of sub-sales which were not negotiated by him. The note-cases cost the respondents 17s. 9d. a dozen, and from March to September, 1932, 7,416 were sold under the scheme. It was admitted that the scheme had been honestly carried out. A circular was sent out by the respondents in which it was stated, *inter alia*, " . . . you can earn any sum up to £20,000 in return for a few hours' work." The justices dismissed the information, and the Director of Public Prosecutions now appealed.

Lord HEWART, C.J., said that it was possible that no case on all fours with the present one had been before the courts, but the principle to be applied was familiar. What the court had to do was to disengage the reality of the transaction from the appearance which it had been made to assume. It was clear that the real consideration for the sum of £1 was not a note-case of the cost price of 1s. 6d., but the prospect that by laying out that sum the purchaser might be the recipient of sums varying from 10s. to £20,000. That was not a commercial transaction at all. The buyer and seller were not concerned with note-cases, but with the chance that the buyer might obtain a large sum of money from the acts of persons over whom he had no control. In his (his lordship's) view, the circular had the word "lottery" written all over it. The case would be sent back to the justices with a direction that the offences charged were proved.

BRANSON and DU PARCQ, JJ., agreed.

COUNSEL: *G. D. Roberts*, for the appellant; *G. O. Slade*, for the respondents.

SOLICITORS: *Director of Public Prosecutions; Williamson, Hill & Co.*, for *Russell & Co.*, Malvern.

[Reported by CHARLES CLAYTON, Esq., Barrister-at-Law.]

TABLE OF CASES previously reported in current volume.—Part II.

THE "GOOD COUNSEL" BALL.

The eighth Annual Good Counsel Ball, in aid of The Society of Our Lady of Good Counsel (to give free legal advice to the poor, irrespective of race and creed), will this year be held at the Dorchester Hotel, on Friday, 2nd November. Mr. Justice and Lady Langton will receive the guests. All communications should be addressed to the hon. secretary, Mr. S. Seuffert, at 46, Kensington Hall-gardens, W.14.

Reviews.

Local Government Law and Legislation for 1933. Edited by W. H. DUMSDAY, of Gray's Inn, Barrister-at-Law. 1934. Demy 8vo. pp. xvi and (with Index) 873. London: Hadden, Best & Co., Ltd. Price (complete with Supplement *The Local Government Act*, 1933) £3 8s. 6d.

The Local Government Act, 1933. By ALFRED R. TAYLOUR, M.A., of Lincoln's Inn, Barrister-at-Law, and JOHN MOSS, of Gray's Inn, Barrister-at-Law. 1934. Demy 8vo. pp. xciv and (with Index) 940. London: Hadden, Best and Co., Ltd. Issued as a Supplement to *Local Government Law and Legislation for* 1933.

The "Law and Legislation" is accompanied this year by a supplement rather larger than itself, dealing with the Local Government Act, 1933. The principal volume contains the statutes, cases, orders, circulars, etc., relating to local government during the year. In Pt. I there are some eighteen statutes or parts thereof which are concerned with the subject in question, the chief being the Children and Young Persons Act, 1933. The Digest of Cases, Pt. II, contains a number of important decisions including that in *Marshall* v. *Blackpool Corporation* [1933] 1 K.B. 688; [1933] 2 K.B. 339 (C.A.); 50 T.L.R. 483 (H.L.) But the real point in the case—that the common law right of access to a highway is not taken away by enactments of the character of the Blackpool Corporation Act, 1879, s. 62—does not emerge from the treatment of the case in the present work. The practice of indicating the fate of a decision in a higher court by a brief footnote is to be deprecated, particularly when a judgment is reversed; but it is probably unavoidable. The collection of miscellaneous orders, etc., contained in Pt. III will be of great service to those for whom the book is intended.

The publication of the second volume has been deferred in order to provide for the inclusion of various statutory rules and regulations, the tendency to issue a text-book upon a statute at the earliest possible moment having been wisely resisted by the authors. The text of the Act is fully annotated, nearly 650 cases being referred to. An interesting introduction sets out the principal features of the statute and the circumstances in which it came into being. This supplementary volume is likely to be of permanent value to many for whom the annual collection of legal material concerning local government is not of prime importance, but both volumes will be indispensable to those concerned in local government work.

Commercial Law Cases. By ALBERT CREW, of Gray's Inn, Barrister-at-Law, Recorder of Sandwich. London: Sir Isaac Pitman & Sons, Ltd. 6s. net.

This is a series of notes on leading cases in commercial law, illustrating the various legal principles involved in contracts, agency, sale of goods, and negotiable instruments. It is intended for the use of students preparing for various professional examinations in which candidates are expected to have a good general knowledge of leading cases in commercial law. The selection of cases covers a wide range, including case law in regard to negotiable instruments.

Books Received.

Salmond on the Law of Torts. Eighth Edition, 1934. By W. T. S. STALLYBRASS, D.C.L., Fellow and Vice-Principal, Brasenose College, Oxford. Demy 8vo. pp. lx and (with Index) 712. London: Sweet & Maxwell, Ltd. 30s. net.

Clients' Money: Practical Advice (with Illustrations) on Certain Matters of Difficulty and Importance. By the Author of "The Simplex Agreement for Sale," etc. 1934. Crown 4to. pp. 24. London: Sweet & Maxwell, Ltd. 2s. 9d., post free.

Rules and Orders.

THE TOWN AND COUNTRY PLANNING (DETERMINATION OF QUESTIONS AS TO COMPENSATION AND BETTERMENT) RULES, 1934, DATED AUGUST 1, 1934, MADE BY THE REFERENCE COMMITTEE FOR ENGLAND AND WALES UNDER THE ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION) ACT, 1919 (9 & 10 GEO. 5. C. 57), AS EXTENDED BY SECTION 23 OF THE TOWN AND COUNTRY PLANNING ACT, 1932 (22 & 23 GEO. 5. C. 48).

In pursuance of the Acquisition of Land (Assessment of Compensation) Act, 1919, as extended by section twenty-three of the Town and Country Planning Act, 1932, the Reference Committee for England and Wales constituted under the first-mentioned Act hereby make the following Rules :—

1. *Short title and interpretation.*]—(1) These Rules may be cited as the Town and Country Planning (Determination of Questions as to Compensation and Betterment) Rules, 1934.

(2) In these Rules :—

"The Act of 1932" means the "Town and Country Planning Act, 1932";

"The Rules of 1919" means the "Acquisition of Land (Assessment of Compensation) Rules, 1919."*

(3) The Interpretation Act, 1889, applies for the purpose of the interpretation of these Rules as it applies for the purpose of the interpretation of an Act of Parliament.

2. *Revocation.*]—The Town Planning (Determination of Questions as to Compensation) Rules, 1926,† are hereby revoked, without prejudice to anything done thereunder :

Provided that this revocation shall not affect the application of the said Rules to any claims made and entertained in pursuance of the provisions of proviso (*b*) to subsection (1) of section 54 of the Act of 1932.

3. *Amendment as to meaning of terms in Rules of* 1919.]—(1) The expression "question" in Rule 2 of the Rules of 1919, shall include any question relating to compensation or betterment under a scheme which by virtue of section twenty-three of the Act of 1932, is to be determined by arbitration under and in accordance with the Acquisition of Land (Assessment of Compensation) Act, 1919 (in these Rules referred to as "a question relating to compensation or betterment").

(2) In the application of the Rules of 1919 to a question relating to compensation or betterment, references in those Rules to the acquiring authority and to the claimant shall respectively mean the responsible authority under the scheme, and the person whose property is alleged to have been injuriously affected or increased in value by the scheme and by or against whom a claim has accordingly been made under the Act of 1932, and the expression "claim" shall mean such a claim made as aforesaid upon which a question arises to be determined in the manner provided by section 23 of the said Act.

4. *Time for sending application for selection of arbitrator, and form of application.*]—(1) The time at which an application for the selection of an arbitrator may be sent to the Reference Committee shall, in the case of a question relating to compensation or betterment, be any time after the expiration of fourteen days from the date on which the claim was made :

Provided that where the question relates to a claim made under subsection (1) of section 21 of the Act of 1932, and the claim is one to which the provisions of the proviso to the said subsection (relating to the deferment of claims in certain cases) apply, the time for making the application shall be any time after the expiration of 28 days from the date of the service of the claim.

(2) In the case of a question relating to compensation or betterment, the form of application set out in Part I of the Schedule to these Rules, or a form to the like effect, shall be substituted for Form A set out in the Schedule to the Rules of 1919.

5. *Amendment of Rule* 7 *of Rules of* 1919.]—(1) The Rules of 1919 shall, in their application to a question relating to compensation or betterment, have effect as if the following paragraphs were substituted for paragraphs (1) and (6) respectively of Rule 7 thereof :—

"(1) Where claims have been made under the Act of 1932 by or against two or more persons having different interests in the same property, the responsible authority may, subject as hereinafter provided, either on making the application for the selection of an arbitrator to hear the claims or at any time thereafter, make an application to the Reference Committee to have the same person selected as the arbitrator to hear and determine all the claims :

"Provided that no such application shall be made as respects a claim if an arbitrator has already entered on the consideration of the claim.

"(6) If any person to whom any such notice of intention has been sent objects to have the claim made by or against him heard with the other claims, he shall within seven days after the receipt of the notice aforesaid send notice of his objection to the responsible authority and the arbitrator."

(2) In the case of a question relating to compensation or betterment, the form of application set out in Part II of the Schedule to these Rules, or a form to the like effect, shall be substituted for Form B set out in the Schedule to the Rules of 1919.

Hewart, C.J.
Hanworth, M.R.
Alan Arnold, P.S.I.
The Reference Committee for England and Wales under the Acquisition of Land (Assessment of Compensation) Act, 1919.

1st August, 1934.

SCHEDULE.

PART I.

Form of application for selection of Arbitrator in case of a question relating to compensation or betterment under a Planning Scheme.

ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION) ACT, 1919,
AND
TOWN AND COUNTRY PLANNING ACT, 1932, SEC. 23.

APPLICATION FOR SELECTION OF OFFICIAL ARBITRATOR.

To the Reference Committee, 121, Royal Courts of Justice, Strand, London, W.C.2.

I, being the person whose property is affected by a planning scheme [*or*, We being the responsible authority] specified in the annexed particulars, hereby apply for the selection, pursuant to the above Acts, of an official arbitrator to hear and determine the question of which particulars are annexed.

*Signed.....

Date.....

* *If the application is signed by an agent, add "by..... his [or their] agent."*

Particulars.

Name and address of responsible authority :
.....
.....
.....

Name and address of responsible authority's solicitor or agent :
.....
.....
.....

Name and address of person whose property is affected :
.....
.....
.....

Name and address of his solicitor or agent :
.....
.....
.....

Description of property affected :
.....
.....
.....

Situation of property affected :
County.....
Parish .....

Nature of question :
.....
.....

PART II.

Form of application to have same person appointed as Arbitrator on claims in respect of different interests in the same property in the case of a question relating to Compensation or Betterment under a Planning Scheme.

ACQUISITION OF LAND (ASSESSMENT OF COMPENSATION) ACT, 1919,
AND
TOWN AND COUNTRY PLANNING ACT, 1932, SEC. 23.

APPLICATION TO HAVE SAME PERSON APPOINTED AS ARBITRATOR ON CLAIMS IN RESPECT OF DIFFERENT INTERESTS IN SAME PROPERTY IN THE CASE OF A QUESTION RELATING TO COMPENSATION OR BETTERMENT UNDER A PLANNING SCHEME.

To the Reference Committee.

We, being the responsible authority in the case of the property specified in the annexed particulars, apply, pursuant

* S.R. & O. 1919 (No. 1836) I, p. 931. † S.R. & O. 1926 (No. 439) p. 1320.

to the Rules made under the above Acts, to have the same person selected as official arbitrator to hear and determine all the claims for compensation or betterment made in respect of the several interests in the said property.

No official arbitrator has been selected in the case of the said claims [*or*, An official arbitrator has already been selected in the case of the claims of the persons numbered..... in the annexed particulars, namely Mr..... in the case of No. 1.....*state the facts*].

*Signed.....

Date.....

* *If the application is signed by an agent of the applicants, add* "*by*..... *his* [*or their*] *Agent.*"

Particulars.

Name and address of responsible authority :

.....

.....

.....

Name and address of responsible authority's solicitor or agent :

.....

.....

.....

Description of property affected :.....

Situation of property affected :

County.....

Parish .....

Names and addresses of (i) the persons entitled to the several interests in the property, and (ii) their respective solicitors or agents :		Nature of interest.
(1) (i)		1.
(ii)		
(2) (i)		2.
(ii)		
(3) (i)		3.
(ii)		
.....		

Societies.

Solicitors' Benevolent Association.

Mr. Norman T. Crombie (York), the Chairman, presided at the Annual General Meeting of this Association, which was held in the Old Assembly Rooms before the meeting of The Law Society on Wednesday, 26th September. At the beginning of the proceedings the meeting stood in silence as a tribute to the memory of Mr. Peter John Skelton, of Manchester, the news of whose sudden death had just reached it. The Chairman, in his address on the report, apologised for the absence of Sir Roger Gregory, who had gone to represent the Association at the Lincolnshire Law Society dinner. He expressed regret at the resignation of Mr. Giles, the Assistant Secretary, who had completed nearly 58 years' service. The Committee were recommending to the Board that the Association should make provision for Mr. Giles on his retirement. He thanked Mr. Gill, the secretary, and Miss Passmore, the almoner, for copying all the application forms so that he might study them before he came to London for the committee meetings. He praised the profession in Newcastle for its great interest in the work of the Association. The subscribers, he said, extended over two and three-quarter pages of the report; the city had two local directors and six members on the Local Committee, and the membership represented 61 per cent. of the legal profession. Nevertheless, he exhorted Newcastle to do even better. Sir Edmund Cook, during his eventful chairmanship, had endeavoured to raise the Association's membership to 6,000 but had vacated the chair before this end had been reached. The membership now stood at 5,948, and if each member present could induce another to join, the 6,000 figure would be passed. Mr. R. C. Nesbitt had induced one of his partners, who had power to determine what legacies should be paid out of a substantial estate, to give the Association £1,000. Such large sums were of the greatest help, as they enabled the Association to provide annuities for deserving cases.

As an example of the progress made in certain localities, the Chairman mentioned that at Burnley last year there had been only seven subscribers; this year every member of the profession, except one firm, subscribed. The reason was that the Association had assisted a Burnley case, and the Burnley people had been pleased with the help which had been given. In Grimsby a year ago there had been eight subscribers, but the local director, Mr. Robert Epton, had invited the whole of the Grimsby profession to lunch and had afterwards talked to them about the Association. Miss Mary Brown, a young lady in practice with her father, had been appointed secretary, and by a personal canvass, had succeeded in inducing all the Grimsby solicitors, except one, to become members.

The Chairman then congratulated Sir Edmund Cook on his knighthood, speaking of the great help that The Law Society's Secretary had always given in every difficulty connected with the Association. He threw upon Sir Edmund the responsibility for his own appointment as Chairman, and congratulated Lady Cook on the assistance which she always gave her husband and her interest in the work of the Association. He urged solicitors to remember that the minimum subscription represented only one cigarette a day or half a whisky and soda a fortnight—a contribution which they would not grudge to any of their friends.

Sir Reginald Poole, in seconding the motion, urged the importance of personal appeal and the uselessness of circulars and letters.

Sir Edmund Cook, in moving a vote of thanks to the Chairman, said that Mr. Crombie had been a most successful and inspiring chairman; he had attended every meeting of the Finance Committee and the Board and had studied every single case, although he practised at such a long distance. He had started the ball rolling and the increase would continue.

Mr. T. G. Cowan, the Vice-Chairman, appealed to members who were paying the minimum subscription to remember the charitable aspect of the Association and to subscribe two guineas instead of one.

Bristol Incorporated Law Society.

ANNUAL REPORT.

The sixty-fourth annual general meeting of the Bristol Incorporated Law Society was held on Monday, 1st October. The following is the annual report of the Council which was presented at the meeting :—

Legislation.—The Council draw attention to the following Acts of Parliament, 24 & 25 Geo. 5: Adoption of Children (Workmen's Compensation); Arbitration; County Courts (Amendment); Finance; Firearms; Gas Undertakings; Licensing (Permitted Hours); Marriage (Extension of Hours); Protection of Animals; Rural Water Supplies; Supply of Water in Bulk; Unemployment; Water Supplies (Exceptional Shortage Orders); Workmen's Compensation (Coal Mines); Trustee Savings Banks (Special Investments); Administration of Justice (Appeals); Law Reform (Miscellaneous Provisions); Solicitors; Colonial Stock; Road Traffic.

The following Measures have been passed by the National Assembly of the Church of England and received the Royal Assent, 24 & 25 Geo. 5: Clerical Disabilities Act, 1870 (Amendment); Cathedrals (Amendment).

Poor Persons Committee.—This Committee during the past year (April, 1933—March, 1934) dealt with fifty-six applications for legal assistance. Of these forty were granted, fifteen refused and one referred to another committee. The Council again desire to thank those counsel and solicitors who have undertaken the conduct of these cases, and ask members who have not already done so to allow their names to be placed on the rota, so that the work may be more fairly distributed.

Faculty of Law.—The Faculty of Law of the University of Bristol was inaugurated in October, 1933, and to commemorate the occasion the degree of LL.D., *honoris causa*, was conferred on The Lord Chancellor (Viscount Sankey), The Attorney-General (Sir Thomas Inskip, K.C., M.P.) and Emeritus Professor Edward Jenks. The hours of lectures in the Faculty are so arranged as to enable articled clerks to read for the degree of LL.B. concurrently with their articles. Eleven students, five of whom are articled clerks, entered the Faculty in October, 1933.

Legal Education—School of Law.—A grant of £600 has again been received from The Law Society by the Bristol and District Board of Legal Studies. Courses of lectures have been given as follows: Twelve for Final students, three of these being given by Professor Malcolm M. Lewis, M.A., LL.B. Cantab., on Conveyancing; three by Mr. A. M. Wilshere, M.A., LL.B., on Common Law; three by Mr. E. W. W. Veale, LL.D. (Lond.), two on Company Law and one on Partnership; and three by Mr. K. H. Bain, LL.B. (Lond.), on Criminal Law. Six courses have been given for Intermediate students on the subject-matter of "Stephen's Commentaries," three being given by Professor Lewis and

three by Dr. Veale. The total number of students attending these lectures was fifty-five. Three attended from Bath, six from Bridgwater, five from Cheltenham, one from Clevedon, three from Frome, two from Gloucester, one from Malmesbury, one from Tewkesbury, one from Thornbury, five from Weston-super-Mare, two from Wincanton and one from Yeovil. The remaining twenty-four were local students.

During the year twelve articled clerks passed the examinations of The Law Society, of whom three passed the Final Examination, three the Intermediate, and six the Trust Accounts and Book-keeping portion of the Intermediate.

Solicitors Act, 1933.—The Council desire to draw attention to the rules made by The Law Society under this Act and which come into operation on 1st January, 1935.

Old Library Books.—The continued preservation of a number of old books of considerable historical interest has for some years caused anxiety, and your Council have great pleasure in reporting that through the munificence of Lord Dulverton, these have been purchased by him for presentation to the University of Bristol, upon condition that they shall be accessible to members of the Society. The University have accepted the gift and have undertaken the cost of re-binding and putting them into a proper state of preservation.

The Council regret to have to report the deaths of Mr. A. Cottam Castle, a member of the Council from 1915 to 1920, Mr. H. L. Evans, a member of the Council from 1912 to 1925, and President for the year 1919–20, Mr. F. G. Salisbury, Mr. E. J. Watson, and Mr. W. H. Wise, a member of the Council from 1922 until his death, and President for the year 1929–30.

The Council beg to acknowledge with thanks the presentation of the following books to the library: "Bye-Laws, Rules and Orders for the Conduct, etc., of Pilots, Watermen and others within the Port of Bristol, 1813," by R. S. Cossham, Esq.; "Burn's Justice of the Peace, 1785" (vols. 1 and 2), by A. S. Brookes, Esq.; "Dr. Henry Sacheverell, The Trial of, before the House of Lords, 1710," by A. S. Brookes, Esq.; "English Justice, by 'Solicitor,' 1932," by E. H. Atchley, Esq.; "The Great Red Book of Bristol, Text (Part I), by E. W. W. Veale, Esq., LL.D. (Lond.) (Bristol Record Society's Publications, vol. 4), 1933," by Cyril Meade-King, Esq.; "The Letters of Sir Walter Scott, 1817 to 1821 (2 vols.) by H. J. C. Grierson, M.A., LL.D., D.Litt.," Anonymous.

The members of the Council retiring by rotation are Mr. J. W. S. Clough, Mr. E. M. Harley and Mr. T. Murray Sowerby. The Council nominate Mr. E. M. Harley for re-election in exercise of their power under the fourth Article of Association.

Law Association.

The usual monthly meeting of the Directors was held at the Law Society's Hall, on Thursday, 4th October, Mr. H. Ross Giles in the chair, the other Directors present were: Mr. E. Evelyn Barron, Mr. E. B. V. Christian, Mr. Guy H. Cholmeley, Mr. G. D. Hugh-Jones, Mr. C. D. Medley, Mr. F. S. Pritchard, Mr. John Venning and the Secretary Mr. Andrew H. Morton. A sum of £130 was granted in relief of deserving applicants, two new members were elected and other general business was transacted.

The Hardwicke Society.

A meeting of the Society was held on Friday, 5th October, at 8.15 p.m. in the Middle Temple Common Room, the President (Mr. A. Newman Hall) in the chair. Mr. T. H. Mayers (Hon. Treasurer) moved: "This House deplores the admission of the U.S.S.R. as a member of the League of Nations." Mr. A. L. Ungoed-Thomas (Ex-President) opposed. There also spoke, Mr. J. A. Petrie, Mr. Granville Sharp (Ex-President), Mr. J. Bray, Mr. J. Boyd Carpenter, Mr. Scholefield, The Hon. F. P. Howard (Hon. Secretary), Mr. A. C. Douglas, Mr. Llewellyn Thomas, Mr. Campbell Prosser, Mr. King, Mr. Schafe and Mr. Bentliff. The Hon. Mover having replied, the House divided, and the motion was defeated by fourteen votes.

The Medico-Legal Society.

An Ordinary Meeting of the Society will be held at 11, Chandos-street, Cavendish-square, W.1, on Thursday, the 25th October, at 8.30 p.m., when a paper will be read by Mr. C. Ainsworth Mitchell, D.Sc. (Oxon), F.I.C., on "The Use of Invisible Rays in Criminology," which will be followed by a discussion. Members may introduce guests to the meeting on production of the member's private card.

Law Students' Debating Society.

At a meeting of the Society held at The Law Society's Court Room, on Tuesday, 2nd October (Chairman, Mr. P. W. Iliff), the subject for debate was "That the only rational education is co-education." Mr. D. H. McMullen opened in the affirmative. Mr. E. V. E. White opened in the negative. The following members also spoke: Messrs. A. T. Wilson, R. J. A. Temple, A. W. Young, J. F. Ginnett, R. Langley Mitchell, Miss H. M. Cross, Messrs. P. H. North Lewis, L. J. Frost, P. Dean and N. A. M. Sitters. The opener having replied, the motion was lost by two votes. There were sixteen members and four visitors present.

At a meeting of the Society held at The Law Society's Court Room, on Tuesday, 9th October (Chairman, Mr. L. J. Frost), the subject for debate was: "That the case of *Haynes* v. *Harwood* [1934] 1 K.B. 650, was wrongly decided." Mr. P. H. Dean opened in the affirmative, Miss F. W. Strange opened in the negative; Mr. K. M. Trenholme seconded in the affirmative, Mr. F. G. Timmins seconded in the negative. The following members also spoke: Messrs. S. Sansom, J. E. Terry, W. M. Pleadwell, G. M. Parbury, R. Morgan (visitor), J. R. Campbell Carter, Miss V. A. Hastie, Messrs. H. Peck, R. P. A. Garrett (visitor), P. H. North Lewis, Mrs. H. S. Evans and Mr. C. J. de S. Root. The opener having replied, and the chairman having summed up, the motion was lost by four votes. There were sixteen members and five visitors present.

Legal Notes and News.

Honours and Appointments.

The King has been pleased to approve that Sir ADAIR ROCHE be sworn of his Majesty's most honourable Privy Council on his appointment to be a Lord Justice of Appeal.

At Buckingham Palace last Monday the King conferred the honour of knighthood upon Mr. HAROLD DERBYSHIRE, K.C. Sir Harold Derbyshire, who was called to the Bar by Gray's Inn in 1911, was Judge of Appeal in the Isle of Man until recently. Last July he was appointed Chief Justice of Bengal as from 12th November.

Judge HOLMAN GREGORY, K.C., has been elected as Recorder of the City of London by the Court of Aldermen in place of the late Sir Ernest Wild. Judge Holman Gregory, who was called to the Bar by the Middle Temple in 1897, has been Judge of the Mayor's and City of London Court since 1929, and Common Serjeant since 1932.

The Archbishop of York has appointed Mr. HARRY BEVIR VAISEY, K.C., to be Chancellor of the Diocese and Vicar-General of the Province of York, in succession to Sir Philip Wilbraham Baker-Wilbraham, who has been appointed Judge of the Provincial Court. Mr. Vaisey was called to the Bar by Lincoln's Inn in 1901 and took silk in 1925.

The Bishop of Durham has appointed Sir WILLIAM GRAHAM-HARRISON, K.C., to be Diocesan Chancellor, in succession to Sir Philip Baker-Wilbraham, who has resigned office on appointment as Official Principal of the Arches Court of Canterbury and Vicar-General of the Province of Canterbury. Sir William was called to the Bar by Lincoln's Inn in 1897.

Mr. T. HOLLIS WALKER, K.C., has been elected chairman of the Lindsey, Lincolnshire, Quarter Sessions Bench, and His Honour Judge T. W. LANGMAN, vice-chairman.

Mr. S. G. ROWE, of the solicitors' office, Paddington Station, has been appointed Assistant Secretary of the Great Western Railway. Mr. Rowe was admitted a solicitor in 1920.

Coventry City Council have decided to appoint Mr. R. HEGAN, Assistant Solicitor to the Corporation, as Deputy Town Clerk, in succession to Mr. V. Younger. Mr. Hegan was admitted a solicitor in 1931.

Professional Announcements.

(2s. per line.)

Messrs. CLIFFORD-TURNER & Co. announce the change of their address from 81/87, Gresham-street, London, E.C.2, to 11, Old Jewry, London, E.C.2. Their present telephone numbers and their branch at 44, Gresham-street, London, E.C.2, will remain unchanged.

They desire also to announce the admission into the partnership of Mr. L. L. ROSSITER, as from the 1st October, 1934.

THE SOLICITORS' ACCOUNTS RULES, 1935.

Solicitors who may have difficulty in complying with the new rules may solve the difficulty by writing in strict confidence to Accountant, Box. 4281, Solicitors' Journal, 29, Breams-buildings, E.C.4.

Wills and Bequests.

Mr. Harry Gerald Abrahams, solicitor, of Stanhope-terrace, W., left £5,594, with net personalty £5,204.

Mr. Frederick William Murray, solicitor, of Plymouth, left "so far as can at present be ascertained" £8,885, with net personalty £7,049.

Mr. Frederick Hill, solicitor, of Sussex-gardens, W., formerly of Lincoln's Inn and Queen Victoria-street, left £86,479, with net personalty £74,967.

Mr. Edwin John Vine, solicitor, of Exmouth, left £17,095, with net personalty £16,959.

THE SCRUTTON CUP.

Middle Temple Golfing Society won the Bar Golfing Society's Scrutton Cup at Woking on Thursday, 27th September, beating Inner Temple Golfing Society in the final round by four matches to three.

ROYAL EXCHANGE ASSURANCE.

The directors of the Royal Exchange Assurance announce an interim dividend of 11 per cent. (10 per cent. in 1933), less income tax, payable on the 6th November next, on the capital stock of the corporation on account of the year ending 31st December, 1934.

HARMSWORTH LAW SCHOLARSHIPS.

The following members of the Middle Temple have been elected to Harmsworth Law Scholarships of £200 per annum, tenable for three years:—

Mr. A. M. Blake (Gresham's School and Christ's College, Cambridge).

The Hon. J. R. H. T. Cumming-Bruce (Shrewsbury School and Magdalene College, Cambridge).

Mr. J. S. W. Twistleton-Wykeham-Fiennes (Winchester College and Balliol College, Oxford).

Mr. G. V. Hart (Rossall School and Corpus Christi College, Oxford).

Mr. R. H. Hunt (Marlborough College and Queen's College, Oxford).

Mr. D. W. Logan (Liverpool Collegiate School and University College, Oxford).

Mr. A. E. McDonald (Tonbridge School and Balliol College, Oxford).

Mr. R. T. H. Redpath (The Leys School and St. Catherine's College, Cambridge).

Mr. C. C. B. Stewart (Eton College and King's College, Cambridge).

Mr. F. T. Willey (Durham School and St. John's College, Cambridge).

Court Papers.

Supreme Court of Judicature.

ROTA OF REGISTRARS IN ATTENDANCE ON

Date.	Emergency Rota.	Appeal Court No. 1.	Group I. Mr. Justice Eve. Witness. Part I.	Mr. Justice Bennett. Witness. Part II.
	Mr.	Mr.	Mr.	Mr.
Oct. 15	Ritchie	Hicks Beach	*Blaker	Hicks Beach
„ 16	Blaker	Andrews	*Jones	*Blaker
„ 17	More	Jones	*Hicks Beach	Jones
„ 18	Hicks Beach	Ritchie	*Blaker	*Hicks Beach
„ 19	Andrews	Blaker	Jones	Blaker
„ 20	Jones	More	Hicks Beach	Jones

	Group I. Mr. Justice Crossman. Non-Witness.	Mr. Justice Clauson. Non-Witness.	Group II. Mr. Justice Luxmoore. Witness. Part II.	Mr. Justice Farwell. Witness. Part I.
	Mr.	Mr.	Mr.	Mr.
Oct. 15	Jones	More	*Ritchie	*Andrews
„ 16	Hicks Beach	Ritchie	Andrews	*More
„ 17	Blaker	Andrews	*More	*Ritchie
„ 18	Jones	More	Ritchie	Andrews
„ 19	Hicks Beach	Ritchie	*Andrews	*More
„ 20	Blaker	Andrews	More	Ritchie

*The Registrar will be in Chambers on these days, and also on the days when the Court is not sitting.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (30th June, 1932) 2%. Next London Stock Exchange Settlement, Thursday, 25th October, 1934.

	Div. Months.	Middle Price 10 Oct. 1934.	Flat Interest Yield. £ s. d.	†Approximate Yield with redemption £ s. d.
ENGLISH GOVERNMENT SECURITIES				
Consols 4% 1957 or after	FA	113¾	3 10 4	3 2 6
Consols 2½%	JAJO	82	3 1 0	—
War Loan 3½% 1952 or after	JD	105⅝	3 6 3	3 1 9
Funding 4% Loan 1960-90	MN	115	3 9 7	3 2 11
Funding 3% Loan 1959-69	AO	99	3 0 7	3 0 11
Victory 4% Loan Av. life 29 years	MS	112⅝	3 11 0	3 6 4
Conversion 5% Loan 1944-64	MN	118	4 4 9	2 14 5
Conversion 4½% Loan 1940-44	JJ	112	4 0 4	2 6 5
Conversion 3½% Loan 1961 or after	AO	104¾	3 6 10	3 4 7
Conversion 3% Loan 1948-53	MS	102⅞	2 18 4	2 14 9
Conversion 2½% Loan 1944-49	AO	98⅜	2 10 10	2 12 9
Local Loans 3% Stock 1912 or after	JAJO	94	3 3 10	—
Bank Stock	AO	367½	3 5 4	—
Guaranteed 2¾% Stock (Irish Land Act) 1933 or after	JJ	85	3 4 8	—
Guaranteed 3% Stock (Irish Land Acts) 1939 or after	JJ	93	3 4 6	—
India 4½% 1950-55	MN	113	3 19 8	3 8 7
India 3½% 1931 or after	JAJO	96	3 12 11	—
India 3% 1948 or after	JAJO	84	3 11 5	—
Sudan 4½% 1939-73 Av. life 27 years	FA	117	3 16 11	3 10 3
Sudan 4% 1974 Red. in part after 1950	MN	111	3 12 1	3 2 4
Tanganyika 4% Guaranteed 1951-71	FA	112	3 11 5	3 0 9
Transvaal Government 3% Guaranteed 1923-53 Average life 12 years	MN	102	2 18 10	2 16 0
L.P.T.B.4½% "T.F.A." Stock 1942-72	JJ	111½	4 0 9	2 13 7
COLONIAL SECURITIES				
Australia (Commonw'th) 4% 1955-70	JJ	106	3 15 6	3 11 10
*Australia (C'mm'nw'th) 3¾% 1948-53	JD	103	3 12 10	3 9 6
Canada 4% 1953-58	MS	110	3 12 9	3 5 8
Natal 3% 1929-49	JJ	98	3 1 3	3 3 5
*New South Wales 3½% 1930-50	JJ	100	3 10 0	3 10 0
*New Zealand 3% 1945	AO	99	3 0 7	3 2 7
Nigeria 4% 1963	AO	109	3 13 5	3 10 0
Queensland 3½% 1950-70	JJ	100	3 10 0	3 10 0
South Africa 3½% 1953-73	JD	105	3 6 8	3 2 11
*Victoria 3½% 1929-49	AO	100	3 10 0	3 10 0
*W. Australia 3½% 1935-55	AO	99	3 10 8	3 11 5
CORPORATION STOCKS				
Birmingham 3% 1947 or after	JJ	93	3 4 6	—
Croydon 3% 1940-60	AO	98	3 1 3	3 2 4
Essex County 3½% 1952-72	JD	106	3 6 0	3 1 3
*Hull 3½% 1925-55	FA	102	3 8 8	—
Leeds 3% 1927 or after	JJ	92	3 5 3	—
Liverpool 3½% Redeemable by agreement with holders or by purchase	JAJO	104	3 7 4	—
London County 2½% Consolidated Stock after 1920 at option of Corp.	MJSD	79	3 3 3	—
London County 3% Consolidated Stock after 1920 at option of Corp.	MJSD	94	3 3 10	—
Manchester 3% 1941 or after	FA	93	3 4 6	—
Metropolitan Consd. 2½% 1920-49	MJSD	98	2 11 0	2 13 4
Metropolitan Water Board 3% "A" 1963-2003	AO	94	3 3 10	3 4 4
Do. do. 3% "B" 1934-2003	MS	95	3 3 2	3 3 7
Do. do. 3% "E" 1953-73	JJ	99	3 0 7	3 0 10
Middlesex County Council 4% 1952-72	MN	110	3 12 9	3 5 2
Do. do. 4½% 1950-70	MN	114	3 18 11	3 7 1
Nottingham 3% Irredeemable	MN	92	3 5 3	—
Sheffield Corp. 3½% 1968	JJ	105	3 6 8	3 5 1
ENGLISH RAILWAY DEBENTURE AND PREFERENCE STOCKS				
Gt. Western Rly. 4% Debenture	JJ	109½	3 13 1	—
Gt. Western Rly. 4½% Debenture	JJ	119½	3 15 4	—
Gt. Western Rly. 5% Debenture	JJ	130	3 16 11	—
Gt. Western Rly. 5% Rent Charge	FA	128½	3 17 10	—
Gt. Western Rly. 5% Cons. Guaranteed	MA	126	3 19 4	—
Gt. Western Rly. 5% Preference	MA	112	4 9 3	—
Southern Rly. 4% Debenture	JJ	109	3 13 5	—
Southern Rly. 4% Red. Deb. 1962-67	JJ	109¼	3 13 1	3 9 4
Southern Rly. 5% Guaranteed	MA	125½	3 19 8	—
Southern Rly. 5% Preference	MA	112	4 9 3	—

*Not available to Trustees over par.

†In the case of Stocks at a premium, the yield with redemption has been calculated as at the earliest date; in the case of other Stocks, as at the latest date.

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